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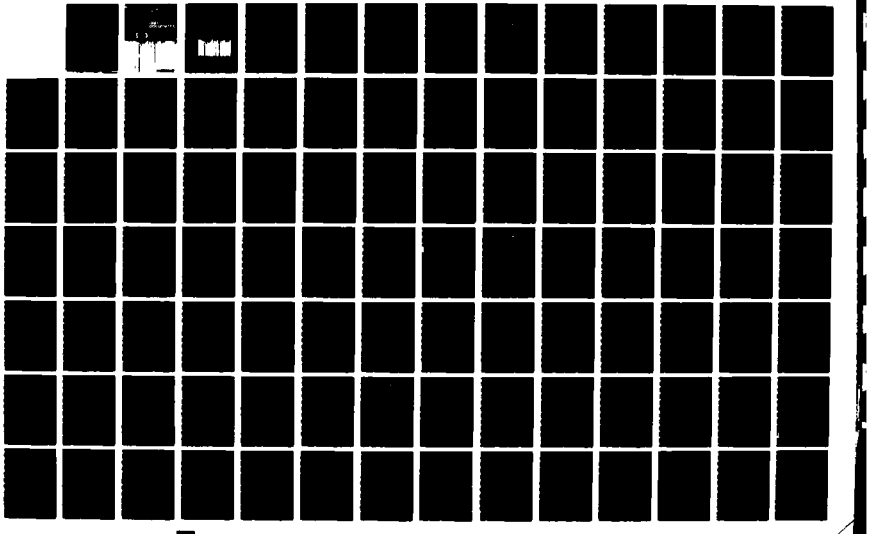

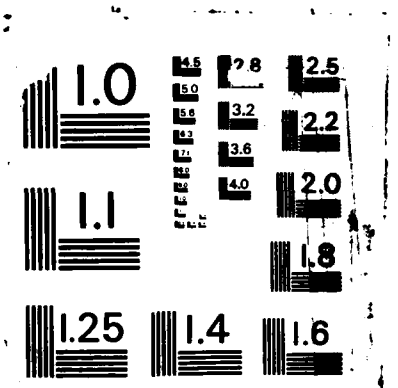

OCTOBER 1980
VOL. 5, NO. 10

# GAO DOCUMENTS

113171-113401

## CATALOG OF REPORTS, DECISIONS AND OPINIONS, TESTIMONIES AND SPEECHES

# GAO DOCUMENTS

**113171-113401**

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**October 1980**
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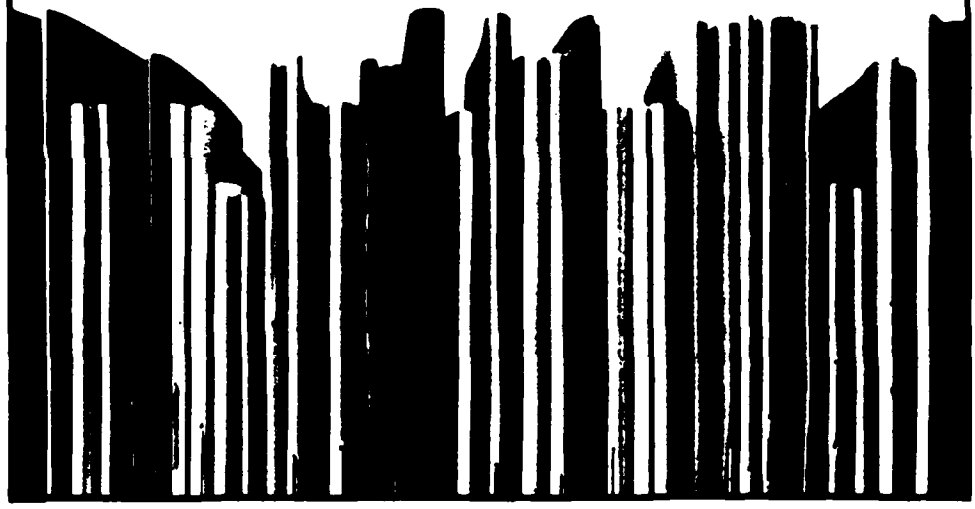

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Washington, D.C. 20548

**U.S. GENERAL ACCOUNTING OFFICE**

**ELMER B. STAATS,** COMPTROLLER GENERAL
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# TABLE OF CONTENTS

## INDEX SECTION


| Type of Index | Page |
|---|---|
| Subject | 1 |
| Agency/Organization | 33 |
| Personal Name | 43 |
| Congressional | 45 |
| Law/Authority | 49 |
| GAO Issue Area | 71 |
| GAO Division/Office | 75 |
| Budget Function | 79 |


## CITATION SECTION

**Accession Numbers**


| | |
|---|---|
| 113171-113196 | 83 |
| 113197-113222 | 90 |
| 113223-113248 | 96 |
| 113249-113274 | 106 |
| 113275-113300 | 113 |
| 113301-113326 | 121 |
| 113327-113352 | 128 |
| 113353-113378 | 136 |
| 113379-113401 | 145 |

Common abbreviations used in this publication ..... inside back cover

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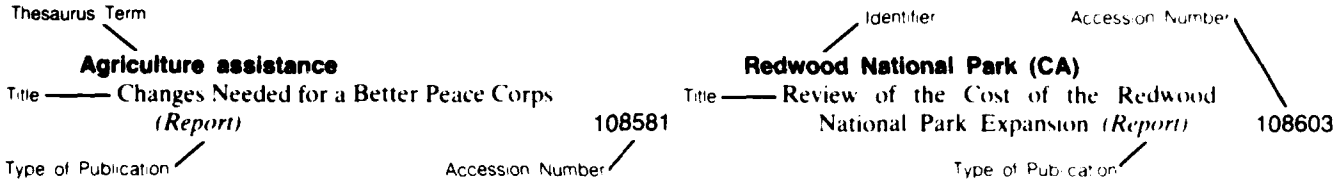
# INDEX
# SECTION

# SUBJECT INDEX

Documents are indexed under approved GAO Thesaurus terms as well as freely assigned identifiers, including geographic location, program and other proper names.

SAMPLE ENTRY:





**Abortions**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278

**Accounting systems**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Beer Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222

**Administrative errors**
Request for Waiver of Indebtedness *(Decision)* 113309

**Administrative law**
The OGC Adviser *(Other)* 113397
The Administrative Process: An Overview *(Other)* 113399

**Administrative law judges**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353
The Administrative Process: An Overview *(Other)* 113399

**Adult Expanded Food and Nutrition Education Program**
Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

**Advertising**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**Agency evaluation**
Department of Energy Procurement Activities *(Report)* 113234
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

**Agency missions**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
Request for Information on the General Accounting Office *(Letter)* 113257

**Agency proceedings**
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337
EEOC's Proposed Regulations *(Letter)* 113391
The OGC Adviser *(Other)* 113397
Don't Come to Work on October 1: Or a Clearly Deficient Situation *(Other)* 113398
The Administrative Process: An Overview *(Other)* 113399

**Agency reports**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**Agricultural assistance**
Parity and the Agricultural Sector *(Testimony)* 113346

**Agricultural policies**
Parity and the Agricultural Sector *(Testimony)* 113346

**Agricultural production**
Parity and the Agricultural Sector *(Testimony)* 113346

**Agricultural programs**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192
Parity and the Agricultural Sector *(Testimony)* 113346

**Agricultural research**
Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221
Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

**Aid for education**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**Aid for the handicapped**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190

**Aid for training or employment**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190

**Aid to families w dependent children**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Air Force facilities**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235

**Air Force personnel**
Views on H.R. 7638 *(Letter)* 113311
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Air Force procurement**
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355

**Air pollution**
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Air pollution control**
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Air traffic controllers**
Reimbursement for Towing Expenses *(Decision)* 113231

**Air transportation operations**
Prohibition Against Use of Travel Agents *(Letter)* 113184
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191
Transportation Issues in the 1980's *(Staff Study)* 113247

**Air travel allowances**
Prohibition Against Use of Travel Agents *(Letter)* 113184

**Aircraft components**
Protest of Sole-Source Contract Award *(Decision)* 113259
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Aircraft pilots**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**Aircraft research**
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Airline industry**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Airline personnel**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Airline regulation**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Airports**
Reimbursement for Towing Expenses *(Decision)* 113231
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Alaska**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Alcohol Safety Action Program**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239

**Americans employed abroad**
Reimbursement of Expenses *(Decision)* 113324

**Animal diseases**
Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

**Animal husbandry**
Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

**Appropriated funds**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353
Appropriated Funds and Interest *(Letter)* 113389

**Appropriation accounts**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**Appropriations**
Don't Come to Work on October 1; Or a Clearly Deficient Situation *(Other)* 113398

**Architects**
Protests Against Termination Negotiations *(Decision)* 113203
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**Army facilities**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235

**Army personnel**
Recoupment of Union Dues *(Decision)* 113253

**Army procurement**
Protest of Army Contract Award *(Decision)* 113258
Protest of Sole-Source Contract Award *(Decision)* 113259
Protest of Procedures Used in Army RFQ *(Decision)* 113313
Protest Concerning IFB Cancellation *(Decision)* 113325
Protest of Army Contract Award *(Decision)* 113369
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Audit authority**
The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268
Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980 *(Report)* 113394

**Audit reports**
Appropriated Funds and Interest *(Letter)* 113389
Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980 *(Report)* 113394

**Auditing procedures**
Who Audits the Auditors? *(Other)* 113272
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321

**Auditing standards**
The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268
Who Audits the Auditors? *(Other)* 113272

**Auditing systems**
Who Audits the Auditors? *(Other)* 113272

**Auditors**
Who Audits the Auditors? *(Other)* 113272

**Audits**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190
Review of Audit Action *(Decision)* 113211
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246
Transportation Issues in the 1980's *(Staff Study)* 113247
The GAO Review *(Other)* 113260
A History of the Claims Division *(Other)* 113263
The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268
A Structure for Managing ADP Resources *(Other)* 113270
Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342

**Authorization**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**Automated systems**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**Automobile industry**
Review of Report Concerning Investment Tax Credit *(Report)* 113386

**Backpay**
EEOC's Proposed Regulations *(Letter)* 113391

**Backpay claims**
Nancy Lee Presson v. United States *(Letter)* 113219

**Banking law**
International Activities of Banks *(Testimony)* 113401

**Banking regulation**
International Activities of Banks *(Testimony)* 113401

**Bankruptcy**
Government's Action To Set Off *(Decision)* 113381

**Basic ordering agreements**
Request for an Advance Decision *(Decision)* 113213

**Behavioral sciences research**
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265

**Benchmark testing**
Protest of Marine Corps RFP *(Decision)* 113225
Protest of Army Contract Award *(Decision)* 113258

**Beneficiaries**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**Beneficiary Identification and Records Locator System**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**Bid errors**
Protests Against Termination Negotiations *(Decision)* 113203
Protest Against Contract Award *(Decision)* 113209
Claim of Mistake in Bid *(Decision)* 113370

**Bid modifications**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335

**Bid preparation**
Claim of Mistake in Bid *(Decision)* 113370

**Bid preparation cost claims**
Protest Against Contract Award *(Decision)* 113197
Request for Proposal Preparation Cost *(Decision)* 113379

**Bid preparation time**
Protest of Proposal Rejection for Lateness *(Decision)* 113354
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Bid protests**
Request for Reconsideration *(Decision)* 113212
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356
Claim of Mistake in Bid *(Decision)* 113370

**Bid rejection**
Request for Reconsideration *(Decision)* 113200

**Bid rejection protests**
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178
Protest Against Bid Rejection *(Decision)* 113205
Protest of Elimination From Competitive Range *(Decision)* 113249
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Protest of Proposal Rejection for Lateness *(Decision)* 113354
Protest Against Rejection of Bid *(Decision)* 113362

**Bid samples**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**Bid specifications**
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356
Claim of Mistake in Bid *(Decision)* 113370
Request for Reconsideration *(Decision)* 113382

**Bidder eligibility**
Protests Against Termination Negotiations *(Decision)* 113203
Request for Reconsideration *(Decision)* 113212
Protest of SBA Refusal to Issue COC *(Decision)* 113214
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**Bidder evaluation**
Protests Against Termination Negotiations *(Decision)* 113203
Request for Reconsideration *(Decision)* 113212

Protest Against Use of Negotiation Procedures *(Decision)* 113229

**Bidder responsibility**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Request for Reconsideration *(Decision)* 113212
Protest of Nonresponsibility Determination *(Decision)* 113291
Protest of Contract Award by Awardee *(Decision)* 113295
Protest Involving Issues in Litigation *(Decision)* 113352
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356
Request for Reconsideration *(Decision)* 113368
Protest of Army Contract Award *(Decision)* 113369

**Bidder responsiveness**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Protest of Army Contract Award *(Decision)* 113176
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178
Request for Reconsideration *(Decision)* 113200
Protests Against Termination Negotiations *(Decision)* 113203
Protest Against Contract Award *(Decision)* 113209
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Protest Involving Federal Funds *(Decision)* 113322
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356
Protest Against Rejection of Bid *(Decision)* 113362
Protest of Army Contract Award *(Decision)* 113369

**Billing procedures**
Review of Audit Action *(Decision)* 113211
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**Black lung disease**
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**Bribery**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**Budget activities**
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

**Budget administration**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

**Budget authority**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

**Budget disbursements**
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

**Budget obligations**
Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

**Budget outlays**
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

**Budgeting**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

**Buildings**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**C-130 aircraft**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222

**California**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Canada**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Cancellation protests**
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**Capital**
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

**Carcinogens**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Career Management System**
Performance Appraisal System Manual: Behaviorally Anchored Rating Scales *(Other)* 113299

**Career planning**
GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275
Women in the Workplace: An Annotated Bibliography *(Other)* 113319
Career Level Council--Annual Report 1980 *(Other)* 113336

**Carper Housing Project, Virginia Beach (VA)**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Case law**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187
Settlement of Alleged Breach of Contract *(Decision)* 113310

**Centralization**
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

**Certificates of competency**
Protest of SBA Refusal to Issue COC *(Decision)* 113214
Protest of Nonresponsibility Determination *(Decision)* 113291
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**Certifying officers**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182

**Check disbursement or control**
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236

**Civil engineering**
Protest Against Contract Award *(Decision)* 113197
Protests Against Termination Negotiations *(Decision)* 113203

**Civil procedure**
Elias Emiliano v. United States *(Letter)* 113217
Jane Idoine v. United States *(Letter)* 113218
Administrative Payment of Attorneys Fees *(Decision)* 113314

**Civil rights**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278
EEOC's Proposed Regulations *(Letter)* 113391

**Civil Service pensions**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**Civilian employees**
Views on H.R. 7638 *(Letter)* 113311

**Civilian Health and Medical Program of the Uniformed Services**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**Claims**
Protest of Purchase Order Award *(Decision)* 113274

**Claims adjudicators**
A History of the Claims Division *(Other)* 113263

**Claims settlement**
Review of Audit Action *(Decision)* 113211
Reimbursement for Towing Expenses *(Decision)* 113231
A History of the Claims Division *(Other)* 113263
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**Cleveland (OH)**
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265

**Clothing allowances**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**Collective bargaining agreements**
Reimbursement for Towing Expenses *(Decision)* 113231

**Combat readiness**
Survey of the Readiness of Minuteman Missiles *(Report)* 113323

**Commercial aviation**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Communications equipment**
Protest Involving Issues in Litigation *(Decision)* 113352

**Community development**
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248
Protest Involving Federal Funds *(Decision)* 113322
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Community health services**
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Comparative analysis**
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188

**Compensation**
Recoupment of Union Dues *(Decision)* 113253
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332
Request for Reconsideration *(Decision)* 113349
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378
Don't Come to Work on October 1; Or a Clearly Deficient Situation *(Other)* 113398

**Compensation claims**
Nancy Lee Presson v. United States *(Letter)* 113219
Bobby W. Adkins et al v. United States *(Letter)* 113220
Views on H.R. 7638 *(Letter)* 113311

**Competition**
Sole-Source Passport Office Lamination Contract *(Report)* 113189
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204
Request for an Advance Decision *(Decision)* 113213
Protest of Marine Corps RFP *(Decision)* 113225
Protest of Elimination From Competitive Range *(Decision)* 113249
The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269
Protest Against RFP Cancellation *(Decision)* 113347
Protest Alleging Solicitation Improprieties *(Decision)* 113348
Request for Reconsideration *(Decision)* 113349
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378
Review of Report Concerning Investment Tax Credit *(Report)* 113386
International Activities of Banks *(Testimony)* 113401

**Competition limitation**
Protest Against Contract Award *(Decision)* 113196
Department of Energy Procurement Activities *(Report)* 113234
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**Competitive bids**
Contract Award Protest *(Decision)* 113207
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

Protest Involving Issues in Litigation *(Decision)* 113352

**Compliance**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332

**Comprehensive Employment and Training Act Programs**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

**Computer equipment contracts**
Protest Alleging Improper RFP *(Decision)* 113215
The GAO Review *(Other)* 113260

**Computer equipment management**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**Computer software documentation**
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**Computerized information systems**
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233

**Computers**
A Structure for Managing ADP Resources *(Other)* 113270

**Congressional budgets**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

**Congressional committee reports**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

**Congressional committees**
Playing on Someone Else's Team: or Working on a Senate Subcommittee *(Other)* 113271
Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

**Congressional employees**
The GAO Review *(Other)* 113260
Playing on Someone Else's Team: or Working on a Senate Subcommittee *(Other)* 113271
Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980 *(Report)* 113394

**Congressional/executive relations**
The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268

**Congressional investigations**
Playing on Someone Else's Team; or Working on a Senate Subcommittee *(Other)* 113271

**Congressional powers**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245
The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268
The OGC Adviser *(Other)* 113397
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Conservation**
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Constitutional law**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278
The OGC Adviser *(Other)* 113397
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Construction (process)**
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Construction contracts**
Settlement of Alleged Breach of Contract *(Decision)* 113310
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**Construction costs**
Definition of "Minorities" *(Letter)* 113228
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**Consultants**
Department of Energy Procurement Activities *(Report)* 113234

**Consumer protection**
Transportation Issues in the 1980's *(Staff Study)* 113247
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266

**Contract administration**
Protest Against Contracting Officer's Decision *(Decision)* 113208
Protest of Contract Termination *(Decision)* 113230
Claim for Service Charges *(Letter)* 113252
Selected Reference Works on Government Contracting: An Annotated Bibliography *(Other)* 113320
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications *(Decision)* 113361
Request for Reconsideration *(Decision)* 113382

**Contract award**
Department of Energy Procurement Activities *(Report)* 113234

**Contract award protests**
Protest Against Contract Award *(Decision)* 113196
Protest Against Contract Award *(Decision)* 113197
Contract Award Protest *(Decision)* 113207
Protest Against Contracting Officer's Decision *(Decision)* 113208
Protest Against Contract Award *(Decision)* 113209
Protest of Army Contract Award *(Decision)* 113258
Protest of Sole-Source Contract Award *(Decision)* 113259
Protest of Purchase Order Award *(Decision)* 113274
Request for Reconsideration *(Decision)* 113280
Protest of Nonresponsibility Determination *(Decision)* 113291
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest of Contract Award by Awardee *(Decision)* 113295
Protest Involving Federal Funds *(Decision)* 113322
Protest Against Proposed Contract Award *(Decision)* 113323
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Protest Involving Issues in Litigation *(Decision)* 113352
Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications *(Decision)* 113361
Request for Reconsideration *(Decision)* 113368

Protest of Army Contract Award *(Decision)* 113369
Claim of Mistake in Bid *(Decision)* 113370
Request for Proposal Preparation Cost *(Decision)* 113379
Protest Against Contract Award *(Decision)* 113380

**Contract cancellation**
Protests Against Termination Negotiations *(Decision)* 113203

**Contract costs**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Contract evaluation**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**Contract modifications**
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**Contract monitoring**
Selected Reference Works on Government Contracting: An Annotated Bibliography *(Other)* 113320

**Contract negotiations**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Request for Reconsideration *(Decision)* 113382

**Contract specifications**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Protest of Specification *(Decision)* 113227
Claim for Service Charges *(Letter)* 113252

**Contract termination**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Contract Award Protest *(Decision)* 113207
Protest of Contract Termination *(Decision)* 113230
Protest of HHS Contract Award *(Decision)* 113287
Protest of Default Termination of Contract *(Decision)* 113290
Settlement of Alleged Breach of Contract *(Decision)* 113310
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**Contract violations**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**Contracting procedures**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Selected Reference Works on Government Contracting: An Annotated Bibliography *(Other)* 113320
Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications *(Decision)* 113361

**Contractor eligibility**
Protest of HHS Contract Award *(Decision)* 113287

**Contractor payments**
Claim for Service Charges *(Letter)* 113252
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332

**Contractor responsibility**
Protest of Contract Award by Awardee *(Decision)* 113295
Protest of Army Contract Award *(Decision)* 113369

**Corporations**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**Correctional facilities**
Playing on Someone Else's Team; or Working on a Senate Subcommittee *(Other)* 113271
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Cost accounting**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222

**Cost analysis**
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345
Protest Involving Issues in Litigation *(Decision)* 113352
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Cost control**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Cost effectiveness analysis**
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Protest Concerning IFB Cancellation *(Decision)* 113325
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**Cost of living**
Protest Concerning Military Retired Pay *(Decision)* 113199
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**Costs**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**Court costs**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**Courts (law)**
Protest Against Proposed Contract Award *(Decision)* 113323
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Crime prevention**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

**Crimes or offenses**
Protest Against Contracting Officer's Decision *(Decision)* 113208
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**Criminal procedure**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

**Crude oil**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Crude oil pipeline operations**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Cuban Refugee Freedom Flotilla**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**Damage claims**
Nancy Lee Presson v. United States *(Letter)* 113219

**Damages (legal)**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**Data analysis operations**
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246

**Data collection operations**
Career Challenges in a Changing Civil Service *(Other)* 113264

**Data processing operations**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

**Debarred bidders**
Changes to Consolidated List of Current Debarments *(Other)* 113367

**Debt**
A History of the Claims Division *(Other)* 113263
Request for Waiver of Indebtedness *(Decision)* 113309

**Debt collection**
Government's Action To Set Off *(Decision)* 113381

**Defective specifications**
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Defense appropriations**
GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Defense capabilities**
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Defense contingency planning**
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Defense cost control**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275
Survey of the Readiness of Minuteman Missiles *(Report)* 113326
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Delivery terms**
Protest Against Bid Rejection *(Decision)* 113205

**Demographic data**
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265
Hispanic Americans--A Profile *(Other)* 113267
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Department of Defense budgets**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Department of Defense procurement**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Request for Reconsideration *(Decision)* 113280
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281
Protest of Nonresponsibility Determination *(Decision)* 113291
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Differential pay**
Bobby W. Adkins et al v. United States *(Letter)* 113220

**Diplomats**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**Disadvantaged persons**
The New York Region: The Apple Still Shines *(Other)* 113262

**Disbursing officers**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182

**Divorced persons**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**Document reclassification**
Nancy Lee Presson v. United States *(Letter)* 113219

**Documentation**
Elias Emiliano v. United States *(Letter)* 113217

Jane Idoine v. United States *(Letter)* 113218
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

**Drug trafficking**
Playing on Someone Else's Team: or Working on a Senate Subcommittee *(Other)* 113271

**Drugs**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187
Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Economic analysis**
Alternative Mortgage Instruments--Their Importance to You *(Other)* 113273
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

**Economic assistance**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Economic growth**
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

**Economic indicators**
International Affairs: A Listing of Major Journals *(Other)* 113317
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Economic policies**
International Affairs: A Listing of Major Journals *(Other)* 113317
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Education or training**
Protest Against Use of Negotiation Procedures *(Decision)* 113229
Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316
Women in the Workplace: An Annotated Bibliography *(Other)* 113319
Career Level Council--Annual Report 1980 *(Other)* 113336
Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376

**Educational programs**
Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

**EF-111A Tactical Jamming System**
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**Elderly persons**
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265
Protest of HHS Contract Award *(Decision)* 113287
Administrative Payment of Attorneys Fees *(Decision)* 113314
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Electric utilities**
Propriety of Agreement *(Decision)* 113210
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Electronic data processing**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238
The GAO Review *(Other)* 113260
Career Challenges in a Changing Civil Service *(Other)* 113264
The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269
A Structure for Managing ADP Resources *(Other)* 113270
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338
Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376
Request for Reconsideration *(Decision)* 113382
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**Electronic equipment**
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

**Electronic equipment industry**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Electronic funds transfer**
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**Eligibility criteria**
Protest Concerning Military Retired Pay *(Decision)* 113199
Protest Against Contracting Officer's Decision *(Decision)* 113208
Definition of "Minorities" *(Letter)* 113228
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241
Claim for Service Charges *(Letter)* 113252
Recoupment of Union Dues *(Decision)* 113253
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306
Views on H.R. 7638 *(Letter)* 113311

**Eligibility determinations**
Protest of HHS Contract Award *(Decision)* 113287
Promotion of Officers by Department of Navy *(Letter)* 113366
Request for Reconsideration *(Decision)* 113368

**Employee medical benefits**
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**Employee promotions**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288
Career Level Council--Annual Report 1980 *(Other)* 113336

**Employee retirement plans**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**Employee survivors benefits**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**Employment**
The GAO Review *(Other)* 113260

**Employment discrimination**
Selected Publications on Equal Opportunity *(Other)* 113318
Women in the Workplace: An Annotated Bibliography *(Other)* 113319
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330
EEOC's Proposed Regulations *(Letter)* 113391

**Employment of minorities**
Selected Publications on Equal Opportunity *(Other)* 113318
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Employment of the handicapped**
Selected Publications on Equal Opportunity *(Other)* 113318
EEOC's Proposed Regulations *(Letter)* 113391

**Employment or training programs**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Energy**
International Affairs: A Listing of Major Journals *(Other)* 113317

**Energy conservation**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Energy consumption**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Energy costs**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Energy demand**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Energy industry**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**Energy recovery from waste**
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

**Energy research**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

**Energy supplies**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
Transportation Issues in the 1980's *(Staff Study)* 113247
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Entitlement authority**
Claim for Additional Per Diem *(Decision)* 113177
Protest Concerning Military Retired Pay *(Decision)* 113199
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**Environmental monitoring**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**Environmental policies**
Transportation Issues in the 1980's *(Staff Study)* 113247
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Equipment**
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

**Equipment contracts**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Protest Against Contracting Officer's Decision *(Decision)* 113208
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281
Protest of Default Termination of Contract *(Decision)* 113290
Protest of Nonresponsibility Determination *(Decision)* 113291
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341
Request for Reconsideration *(Decision)* 113382

**Equipment inventories**
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Equipment maintenance**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191

**Equipment management**
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**Equipment repairs**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Erroneous payments**
Request for Waiver of Indebtedness *(Decision)* 113309

**Errors**
Recoupment of Union Dues *(Decision)* 113253

**Ethical conduct**
Definition of "Minorities" *(Letter)* 113228
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**Evaluation criteria**
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248
Request for Reconsideration *(Decision)* 113280

**Evaluation methods**
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248
Protest of Elimination From Competitive Range *(Decision)* 113249
Request for Reconsideration *(Decision)* 113280

**Executive agencies**
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248

**Executive powers**
The Administrative Process: An Overview *(Other)* 113399

**Expense claims**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173
Request for Reconsideration *(Decision)* 113212
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226
Reimbursement for Towing Expenses *(Decision)* 113231
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**Exploration**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**Export regulation**
U.S. Nuclear Non-Proliferation Policy Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**F/A-18 aircraft**
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188

**Facility construction**
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

**Facility management**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235

**Fair employment programs**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242
Hispanic Americans--A Profile *(Other)* 113267
Administrative Payment of Attorneys Fees *(Decision)* 113314
Selected Publications on Equal Opportunity *(Other)* 113318
Women in the Workplace: An Annotated Bibliography *(Other)* 113319
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330
Career Level Council--Annual Report 1980 *(Other)* 113336

**Families**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**Farm income stabilization programs**
Parity and the Agricultural Sector *(Testimony)* 113346

**Farm subsidies**
Parity and the Agricultural Sector *(Testimony)* 113346

**Federal agencies**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344
Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

**Federal agency reorganization**
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**Federal aid**
The New York Region: The Apple Still Shines *(Other)* 113262
Review of Report Concerning Investment Tax Credit *(Report)* 113386

**Federal aid for criminal justice**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Federal aid for highways**
Definition of "Minorities" *(Letter)* 113228

**Federal aid for housing**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Federal aid programs**
"Alice Through the Looking Glass" or Trying New Evaluation Techniques *(Other)* 113265

**Federal aid to cities**
The New York Region: The Apple Still Shines *(Other)* 113262

**Federal aid to localities**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Federal aid to States**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**Federal case law**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**Federal debt**
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**Federal employee retirement programs**
Protest Concerning IFB Cancellation *(Decision)* 113325

**Federal employees**
Prohibition Against Use of Travel Agents *(Letter)* 113184
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201
Overtime Compensation for Surveillance Activity *(Decision)* 113206
Recoupment of Union Dues *(Decision)* 113253
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Career Challenges in a Changing Civil Service *(Other)* 113264
Reimbursement of Expenses *(Decision)* 113324
The OGC Adviser *(Other)* 113397
Don't Come to Work on October 1; Or a Clearly Deficient Situation *(Other)* 113398

**Federal facilities**
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

**Federal facility relocation**
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

**Federal fund accounts**
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**Federal funds**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242
Protest Involving Federal Funds *(Decision)* 113322
Protest Against Proposed Contract Award *(Decision)* 113323
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328
SBA Leveraging Policy *(Letter)* 113364

**Federal grants**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195
Definition of "Minorities" *(Letter)* 113228
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321
Protest Against Proposed Contract Award *(Decision)* 113323
Appropriated Funds and Interest *(Letter)* 113389

**Federal Highway Trust Fund**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Federal interfund transactions**
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236

**Federal law**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
Request for Information on the General Accounting Office *(Letter)* 113257
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Federal legislation**
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321
Reimbursement of Expenses *(Decision)* 113324

**Federal office buildings**
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

**Federal personnel law**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**Federal procurement**
Sole-Source Passport Office Lamination Contract *(Report)* 113189
Propriety of Agreement *(Decision)* 113210

**Federal procurement policies**
Propriety of Agreement *(Decision)* 113210
Selected Reference Works on Government Contracting: An Annotated Bibliography *(Other)* 113320
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**Federal programs**
Transportation Issues in the 1980's *(Staff Study)* 113247
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Federal regulations**
Claim for Additional Per Diem *(Decision)* 113177
Prohibition Against Use of Travel Agents *(Letter)* 113184
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201
Definition of "Minorities" *(Letter)* 113228
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Trends in Evaluation *(Other)* 113261
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

Protest of Procedures Used in Army RFQ *(Decision)* 113313

Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

Reimbursement of Expenses *(Decision)* 113324

Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332

Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

Protest of Proposal Rejection for Lateness *(Decision)* 113354

Promotion of Officers by Department of Navy *(Letter)* 113366

Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

Proposed Title V to S. 262 *(Report)* 113385

EEOC's Proposed Regulations *(Letter)* 113391

The OGC Adviser *(Other)* 113397

The Administrative Process: An Overview *(Other)* 113399

**Federal reports**

Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321

Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**Federal/State relations**

Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

Ground Water Overdrafting Must Be Controlled *(Report)* 113294

Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Federal supply systems**

Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

**Federal taxes**

An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

**Feed additives**

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

**Fighter aircraft**

Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188

**Financial aid programs**

Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

Status of Special National Direct Student Loan Funds *(Report)* 113357

**Financial analysis**

Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

**Financial disclosure reporting**

Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

**Financial institutions**

International Activities of Banks *(Testimony)* 113401

**Financial management**

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

Consolidating Military Base Support Services Could Save Billions *(Report)* 113235

Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239

Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

A History of the Claims Division *(Other)* 113263

Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

International Activities of Banks *(Testimony)* 113401

**Financial records**

Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

**Fiscal policies**

A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Fixed price contracts**

Protest Involving Issues in Litigation *(Decision)* 113352

**Flexible work schedules**

Career Level Council--Annual Report 1980 *(Other)* 113336

**Flight training**

Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Food additives**

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Food and drug law**

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Food relief programs**

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

**Food services**

Protest Against Contract Award *(Decision)* 113196

**Food stamp programs**

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

**Foreign aid programs**

Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**Foreign economic assistance**

Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**Foreign governments**

Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226

**Foreign investments in US**

International Activities of Banks *(Testimony)* 113401

**Foreign loans**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**Foreign policies**
International Affairs: A Listing of Major Journals *(Other)* 113317

**Foreign trade agreements**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243
Playing on Someone Else's Team: or Working on a Senate Subcommittee *(Other)* 113271
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277

**Freight transportation operations**
Protest of GSA Settlement Action *(Decision)* 113296

**Freight transportation rates**
Review of Audit Action *(Decision)* 113211
Protest of GSA Settlement Action *(Decision)* 113296

**Fuel prices**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Fund audits**
Who Audits the Auditors? *(Other)* 113272

**Funds management**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353
Status of Special National Direct Student Loan Funds *(Report)* 113357

**Gas pipeline operations**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Gas resources**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**Gentian Violet**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Gifts or gratuities**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244
Appropriated Funds and Interest *(Letter)* 113389

**Government employee unions**
Bobby W. Adkins et al v. United States *(Letter)* 113220
Recoupment of Union Dues *(Decision)* 113253

**Government employees**
Selected Publications on Equal Opportunity *(Other)* 113318

**Government owned equipment**
Protest Based Upon Solicitation Improprieties *(Decision)* 113175
Protest of Elimination From Competitive Range *(Decision)* 113249

**Government procurement**
Selected Reference Works on Government Contracting: An Annotated Bibliography *(Other)* 113320

**Government publications**
International Affairs: A Listing of Major Journals *(Other)* 113317
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345
Changes to Consolidated List of Current Debarments *(Other)* 113367

**Government retirement benefits**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**Grants to local governments**
Protest Against Contract Award *(Decision)* 113209

**Grants to States**
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**Gross National Product**
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Ground transportation operations**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240
Transportation Issues in the 1980's *(Staff Study)* 113247

**GS grade classification**
Performance Appraisal System Manual: Behaviorally Anchored Rating Scales *(Other)* 113299

**Handicapped children**
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Handicapped persons**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190
Administrative Payment of Attorneys Fees *(Decision)* 113314
Selected Publications on Equal Opportunity *(Other)* 113318
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Health care cost control**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Health care costs**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Health care facilities**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**Health Care Information System**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**Health care planning**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265

**Health care programs**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**Health care services**
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Health centers**
Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333

**Health hazards**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Health insurance**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Health research programs**
Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265

**Health resources utilization**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Health services administration**
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233

**Health statistics**
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265

**Highway research**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**Highway safety**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**Hiring policies**
Hispanic Americans--A Profile *(Other)* 113267

**Homicide**
Playing on Someone Else's Team: or Working on a Senate Subcommittee *(Other)* 113271

**Hospital care services**
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Hospital planning**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Housing allowances**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232
Request for Waiver of Indebtedness *(Decision)* 113309

**Housing construction**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Human factors engineering**
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

**Impacted area programs**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Imprest funds**
Request for Relief From Liability *(Letter)* 113181

**Improper award of contract**
Protest of Contract Award by Awardee *(Decision)* 113295
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335

**Income maintenance programs**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**Income taxes**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**Indebtedness waivers**
Request for Waiver of Indebtedness *(Decision)* 113309

**Indemnity**
Propriety of Agreement *(Decision)* 113210

**Independent regulatory commissions**
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**Indian affairs legislation**
Protest Against Contract Award *(Decision)* 113380

**Ineligible contractors**
Protest Against Contracting Officer's Decision *(Decision)* 113208

**Information disclosure**
Elias Emiliano v. United States *(Letter)* 113217

Jane Idoine v. United States *(Letter)* 113218
Career Challenges in a Changing Civil Service *(Other)* 113264
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332
Protest Against RFP Cancellation *(Decision)* 113347
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365
Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

**Information gathering operations**
Department of Energy Procurement Activities *(Report)* 113234

**Information processing operations**
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

**Information service operations**
Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**Information systems**
Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342

**Information systems analysis**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171

**Inspection**
Protest Against Use of Negotiation Procedures *(Decision)* 113229
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Insulation**
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Insurance premiums**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226

**Intelligence gathering operations**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**Interagency relations**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245
Who Audits the Auditors? *(Other)* 113272
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Interest rates**
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373
Appropriated Funds and Interest *(Letter)* 113389

**Internal audits**
Who Audits the Auditors? *(Other)* 113272
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321

**International agreements**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

**International economic relations**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256
International Activities of Banks *(Testimony)* 113401

**International law**
The OGC Adviser *(Other)* 113397

**International relations**
Trends in Evaluation *(Other)* 113261
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**International trade**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**International trade restriction**
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Interstate programs**
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**Intragovernmental fund accounts**
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**Intragovernmental transactions**
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236

**Inventory control systems**
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243
Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333

**Investigations by Federal agencies**
A History of the Claims Division *(Other)* 113263
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**Investigations into Federal agencies**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**Investments**
SBA Leveraging Policy *(Letter)* 113364
Review of Report Concerning Investment Tax Credit *(Report)* 113386

**Investments abroad**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**Invitation for bids**
Request for Reconsideration *(Decision)* 113200
Protest of Specification *(Decision)* 113227

**Irregular procurement practices**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331
Protest Alleging Solicitation Improprieties *(Decision)* 113348
Request for Reconsideration *(Decision)* 113382

**Judicial review**
The OGC Adviser *(Other)* 113397
The Administrative Process: An Overview *(Other)* 113399

**Jurisdictional authority**
Protest of Army Contract Award *(Decision)* 113176
Protest of Default Termination of Contract *(Decision)* 113290
Protest of Nonresponsibility Determination *(Decision)* 113291
Protest Involving Federal Funds *(Decision)* 113322
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355

**KC-135 aircraft**
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Labor costs**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Request for Reconsideration *(Decision)* 113349
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Labor law**
Request for Reconsideration *(Decision)* 113349
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Labor-management relations**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
Reimbursement for Towing Expenses *(Decision)* 113231
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334
Request for Reconsideration *(Decision)* 113349

**Labor negotiations**
Bobby W. Adkins et al v. United States *(Letter)* 113220

**Labor statistics**
Selected Publications on Equal Opportunity *(Other)* 113318
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Labor unions**
Women in the Workplace: An Annotated Bibliography *(Other)* 113319

**Laboratories**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

**Land management**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Late bids**
Protest Against Bid Rejection *(Decision)* 113205
Protest of Late Proposal Rejection *(Decision)* 113351
Protest of Proposal Rejection for Lateness *(Decision)* 113354

**Late payments**
Claim for Service Charges *(Letter)* 113252

**Law**
International Affairs: A Listing of Major Journals *(Other)* 113317

**Law enforcement**
The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Law enforcement personnel**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Lawyers**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**Leasing policies**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**Leave restoration**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**Leave without pay**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**Legal fees**
Administrative Payment of Attorneys Fees *(Decision)* 113314
EEOC's Proposed Regulations *(Letter)* 113391

**Legal opinions**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185
Overtime Compensation for Surveillance Activity *(Decision)* 113206
Propriety of Agreement *(Decision)* 113210
Claim for Service Charges *(Letter)* 113252
Recoupment of Union Dues *(Decision)* 113253
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283
Settlement of Alleged Breach of Contract *(Decision)* 113310
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**Legislation**
The GAO Review *(Other)* 113260
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266
The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268

Proposed Title V to S. 262 *(Report)* 113385
The OGC Adviser *(Other)* 113397
Don't Come to Work on October 1: Or a Clearly Deficient Situation *(Other)* 113398
The Administrative Process: An Overview *(Other)* 113399

**Legislative reference operations**
Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

**Legislative veto**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Liability (legal)**
Propriety of Agreement *(Decision)* 113210

**Liquid metal fast breeder reactors**
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

**Litigation**
Protest of Army Contract Award *(Decision)* 113176
Elias Emiliano v. United States *(Letter)* 113217
Jane Idoine v. United States *(Letter)* 113218
Nancy Lee Presson v. United States *(Letter)* 113219
Bobby W. Adkins et al v. United States *(Letter)* 113220
Protest Against Proposed Contract Award *(Decision)* 113323
Protest Involving Issues in Litigation *(Decision)* 113352

**Loan defaults**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**Loan repayments**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**Loans to localities**
Protest Involving Federal Funds *(Decision)* 113322

**Local governments**
Protest Against Contract Award *(Decision)* 113209
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321

**Logistics**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223
GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275

**Low income Energy Assistance Program**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Low income housing**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Macroeconomic analysis**
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Mail delivery problems**
Protest Against Bid Rejection *(Decision)* 113205
Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342
Protest of Late Proposal Rejection *(Decision)* 113351

**Maintenance (upkeep)**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Maintenance costs**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**Maintenance services contracts**
Protest of Elimination From Competitive Range *(Decision)* 113249

**Maintenance standards**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Manpower utilization**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

**Marine Corps personnel**
Claim for Additional Per Diem *(Decision)* 113177

**Mass transit funding**
Protest Against Contract Award *(Decision)* 113209

**Mass transit operations**
Protest Against Contract Award *(Decision)* 113209

**Medicaid programs**
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Medical equipment**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191

**Medical fees**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**Medical services rates**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Medicare programs**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Mental health care services**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**Mental illnesses**
Nancy Lee Presson v. United States *(Letter)* 113219

**Merit Pay System**
Career Challenges in a Changing Civil Service *(Other)* 113264

**Military aircraft**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Military airlift operations**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191

**Military appropriations**
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Military benefits claims**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**Military budgets**
Cost Estimates for U.S. and Canadian F A-18 Strike Fighters *(Report)* 113188
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Military compensation**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180

**Military contracts**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Request for Proposal Preparation Cost *(Decision)* 113379

**Military courts**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

**Military dependents**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**Military disability retirement pay**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**Military discharges**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Nancy Lee Presson v. United States *(Letter)* 113219

**Military enlistment**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Military facilities**
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**Military housing**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Military inventories**
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

**Military justice**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

**Military law**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

**Military materiel**
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

**Military medical discharges**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**Military offenses**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

**Military pay**
Government's Action To Set Off *(Decision)* 113381

**Military personnel**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Women in the Workplace: An Annotated Bibliography *(Other)* 113319
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Military personnel records**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Nancy Lee Presson v. United States *(Letter)* 113219
Promotion of Officers by Department of Navy *(Letter)* 113366

**Military procurement**
The Road to a billion Dollar Saving: A Team Effort *(Other)* 113269
Selected Reference Works on Government Contracting: An Annotated Bibliography *(Other)* 113320
Protest Against RFP Cancellation *(Decision)* 113347
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Military promotions**
Promotion of Officers by Department of Navy *(Letter)* 113366

**Minimum wage rates**
Request for Reconsideration *(Decision)* 113349

**Minorities**
Definition of "Minorities" *(Letter)* 113228
The GAO Review *(Other)* 113260
Hispanic Americans--A Profile *(Other)* 113267

**Minority business assistance**
Protest Against Contract Award *(Decision)* 113197

**Minority business contracts**
Protest Against Contract Award *(Decision)* 113196
Definition of "Minorities" *(Letter)* 113228

**Minority businesses**
Protest of Elimination From Competitive Range *(Decision)* 113249
SBA Leveraging Policy *(Letter)* 113364

**Minority contractors**
Protest Against Contract Award *(Decision)* 113380

**Minority education**
Hispanic Americans--A Profile *(Other)* 113267

**Missile bases**
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Monitoring**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Performance Appraisal System Manual: Behaviorally Anchored Rating Scales *(Other)* 113299
Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333

**Mortgage interest rates**
Alternative Mortgage Instruments--Their Importance to You *(Other)* 113273

**Mortgage programs**
The GAO Review *(Other)* 113260
Alternative Mortgage Instruments--Their Importance to You *(Other)* 113273
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Motor vehicle rental agreements**
Request for Reconsideration *(Decision)* 113368

**Motor vehicle repairs**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191

**Motor vehicle safety**
The GAO Review *(Other)* 113260
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266

**Motor vehicle standards**
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266

**Multiple award contracts**
Protest of Proposal Rejection for Lateness *(Decision)* 113354

**National defense operations**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**National parks**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**National Petroleum Reserve (AK)**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**National policies**
International Affairs: A Listing of Major Journals *(Other)* 113317

**National recreation areas**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**NATO military agreements**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226

**Natural gas**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**Natural gas prices**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

**Naval facilities**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235

**Naval personnel**
Request for Waiver of Indebtedness *(Decision)* 113309
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312
Promotion of Officers by Department of Navy *(Letter)* 113366
Government's Action To Set Off *(Decision)* 113381

**Naval reservists**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**Navy procurement**
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279

**Negligence**
Request for Relief From Liability *(Letter)* 113181

**Negotiated contracts**
Protests Against Termination Negotiations *(Decision)* 113203
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**New York (NY)**
The New York Region: The Apple Still Shines *(Other)* 113262

**Non-government procurement**
Prohibition Against Use of Travel Agents *(Letter)* 113184

**Nonappropriated Federal funds**
Request for an Advance Decision *(Decision)* 113213

**Nuclear energy**
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

**Nuclear facilities**
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Nuclear facility safety**
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

**Nuclear fuel reprocessing**
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

**Nuclear physics**
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

**Nuclear powerplant safety**
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**Nuclear powerplants**
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**Nuclear proliferation**
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Nuclear reactors**
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Nursing homes**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303

**Object classifications**
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

**Obligated budget balances**
Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

**Occupational health standards**
Women in the Workplace: An Annotated Bibliography *(Other)* 113319

**Office equipment**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**Office management**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**Officer personnel**
Request for Waiver of Indebtedness *(Decision)* 113309
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312
Promotion of Officers by Department of Navy *(Letter)* 113366

**Oil importing**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Oil leases**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**Oil resources**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Operations analysis**
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Overpayments**
Protest of GSA Settlement Action *(Decision)* 113296
Request for Waiver of Indebtedness *(Decision)* 113309

**Oversight by Congress**
Trends in Evaluation *(Other)* 113261
Proposed Title V to S. 262 *(Report)* 113385
The OGC Adviser *(Other)* 113397
The Administrative Process: An Overview *(Other)* 113399
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Overtime compensation**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**Pacific Northwest**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Parking facilities**
Reimbursement for Towing Expenses *(Decision)* 113231

**Parolees**
Selected Publications on Equal Opportunity *(Other)* 113318

**Patriot Missile System**
Protest of Sole-Source Contract Award *(Decision)* 113259

**Pensions**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**Per diem allowances**
Claim for Additional Per Diem *(Decision)* 113177
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**Performance bonds**
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Personal liability (legal)**
Reimbursement for Towing Expenses *(Decision)* 113231

**Personal property**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**Personnel classification**
A History of the Claims Division *(Other)* 113263
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**Personnel evaluation**
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308
Career Level Council--Annual Report 1980 *(Other)* 113336

**Personnel evaluation systems**
Protests Against Termination Negotiations *(Decision)* 113203
Performance Appraisal System Manual: Behaviorally Anchored Rating Scales *(Other)* 113299

**Personnel management**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Overtime Compensation for Surveillance Activity *(Decision)* 113206
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242
The New York Region: The Apple Still Shines *(Other)* 113262
Career Challenges in a Changing Civil Service *(Other)* 113264
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288
Performance Appraisal System Manual: Behaviorally Anchored Rating Scales *(Other)* 113299
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308
Career Level Council--Annual Report 1980 *(Other)* 113336
Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377
Don't Come to Work on October 1, Or a Clearly Deficient Situation *(Other)* 113398

**Personnel records**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180

**Personnel recruiting**
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Petroleum exploration**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**Physicians**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**Planning**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285
Performance Appraisal System Manual: Behaviorally Anchored Rating Scales *(Other)* 113299
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**Policy evaluation**
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372
International Activities of Banks *(Testimony)* 113401

**Political rights**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278

**Post exchanges**
Request for an Advance Decision *(Decision)* 113213

**Postal rates**
Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342

**Postal service**
Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342

**Preaward evaluation**
Protest of Nonresponsibility Determination *(Decision)* 113291
Protest Involving Issues in Litigation *(Decision)* 113352
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356
Request for Reconsideration *(Decision)* 113368

**Price adjustments**
Claim of Mistake in Bid *(Decision)* 113370

**Price indexes**
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

**Price regulation**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
Parity and the Agricultural Sector *(Testimony)* 113346

**Price supports**
Parity and the Agricultural Sector *(Testimony)* 113346

**Prime contractors**
Protest Against Contract Award *(Decision)* 113380

**Prioritizing**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248

**Procedures or practices evaluation**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194
Contract Award Protest *(Decision)* 113207
Protest of Specification *(Decision)* 113227

Department of Energy Procurement Activities *(Report)* 113234
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248
Protest of Army Contract Award *(Decision)* 113258
A History of the Claims Division *(Other)* 113263
Ground Water Overdrafting Must Be Controlled *(Report)* 113294
Protest of Procedures Used in Army RFQ *(Decision)* 113313
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321
Protest Concerning IFB Cancellation *(Decision)* 113325
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331
Promotion of Officers by Department of Navy *(Letter)* 113366
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Procurement**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Procurement evaluation**
Request for Proposal Preparation Cost *(Decision)* 113379

**Procurement policies**
Definition of "Minorities" *(Letter)* 113228
Protest of Default Termination of Contract *(Decision)* 113290

**Procurement practices**
Department of Energy Procurement Activities *(Report)* 113234
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248
The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Procurement practices protests**
Protest Against Contract Award *(Decision)* 113196
Protest Against Contract Award *(Decision)* 113197
Protest Against Contracting Officer's Decision *(Decision)* 113208
Protest Against Contract Award *(Decision)* 113209
Request for Reconsideration *(Decision)* 113251
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**Procurement procedures**
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178
Contract Award Protest *(Decision)* 113207
Protest of Specification *(Decision)* 113227
Department of Energy Procurement Activities *(Report)* 113234
Protest Involving Federal Funds *(Decision)* 113322

**Procurement procedures protests**
Protests Against Termination Negotiations *(Decision)* 113203
Protest of Purchase Order Award *(Decision)* 113274
Protest of Late Proposal Rejection *(Decision)* 113351

**Procurement protest procedures**
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350

**Procurement protests**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Protest Based Upon Solicitation Improprieties *(Decision)* 113175
Protest of Army Contract Award *(Decision)* 113176
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204
Protest of SBA Refusal to Issue COC *(Decision)* 113214
Protest Alleging Improper RFP *(Decision)* 113215
Protest Against Use of Negotiation Procedures *(Decision)* 113229
Protest of Contract Termination *(Decision)* 113230
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254
Protest of HHS Contract Award *(Decision)* 113287
Protest Against RFP Cancellation *(Decision)* 113347
Protest Against Rejection of Bid *(Decision)* 113362

**Procurement regulation**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Selected Reference Works on Government Contracting: An Annotated Bibliography *(Other)* 113320

**Product performance evaluation**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Request for Reconsideration *(Decision)* 113280

**Product safety**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Production engineering**
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188

**Professional Standards Review Organization Program**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Profits**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Program abuses**
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**Program evaluation**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191

Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

Definition of "Minorities" *(Letter)* 113228

Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239

Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

Transportation Issues in the 1980's *(Staff Study)* 113247

More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248

The GAO Review *(Other)* 113260

Trends in Evaluation *(Other)* 113261

"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265

Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266

The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269

Who Audits the Auditors? *(Other)* 113272

Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

Performance Appraisal System Manual: Behaviorally Anchored Rating Scales *(Other)* 113299

Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333

Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376

Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Program management**

Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188

Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190

The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

Career Challenges in a Changing Civil Service *(Other)* 113264

A Structure for Managing ADP Resources *(Other)* 113270

Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**Project monitoring**

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**Property and supply management**

Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Property damages**

Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Property disposal**

Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Proposal evaluation**

OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237

Protest of Navy Failure To Provide Requested Information *(Decision)* 113254

Protest of Sole-Source Contract Award *(Decision)* 113259

Request for Reconsideration *(Decision)* 113382

**Proposal evaluation protests**

Protest of Elimination From Competitive Range *(Decision)* 113249

Protest of Purchase Order Award *(Decision)* 113274

Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**Proposal preparation costs**

Protest Against Contract Award *(Decision)* 113197

Request for Proposal Preparation Cost *(Decision)* 113379

**Proposed legislation**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277
Views on H.R. 7638 *(Letter)* 113311

**Proprietary data**
Protest Involving Issues in Litigation *(Decision)* 113352

**Protest procedures**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Request for Reconsideration *(Decision)* 113251
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279
Protest of Procedures Used in Army RFQ *(Decision)* 113313
Protest Concerning IFB Cancellation *(Decision)* 113325

**Public administration**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Public assistance programs**
Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Public Buildings Program**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**Public housing**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304

**Public lands**
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Public officials**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186

**Public service employment**
Career Challenges in a Changing Civil Service *(Other)* 113264

**Public utilities**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Publications**
International Affairs: A Listing of Major Journals *(Other)* 113317
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321

**Purchase agreements**
Propriety of Agreement *(Decision)* 113210

**Qualified products list**
Protest Against Rejection of Bid *(Decision)* 113362

**Quality assurance**
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337
Protest Against Rejection of Bid *(Decision)* 113362

**Quality-of-life data**
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Racial discrimination**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278
Selected Publications on Equal Opportunity *(Other)* 113318

**Radiation accidents**
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

**Real estate purchases**
Alternative Mortgage Instruments--Their Importance to You *(Other)* 113273
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**Real estate sales**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**Reconsiderations**
Request for Reconsideration *(Decision)* 113200
Request for Reconsideration *(Decision)* 113212
Request for Reconsideration *(Decision)* 113251
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Request for Reconsideration *(Decision)* 113280
Request for Waiver of Indebtedness *(Decision)* 113309
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Request for Reconsideration *(Decision)* 113349
Request for Reconsideration *(Decision)* 113368
Request for Proposal Preparation Cost *(Decision)* 113379
Request for Reconsideration *(Decision)* 113382

**Records (documents)**
Elias Emiliano v. United States *(Letter)* 113217
Jane Idoine v. United States *(Letter)* 113218
Changes to Consolidated List of Current Debarments *(Other)* 113367

**Records management**
A Structure for Managing ADP Resources *(Other)* 113270
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328
Promotion of Officers by Department of Navy *(Letter)* 113366

**Recreation**
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**Reform of Federal Regulation Act of 1979**
Proposed Title V to S. 262 *(Report)* 113385

**Regional planning**
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Regulatory agencies**
The Administrative Process: An Overview *(Other)* 113399

**Rehabilitation programs**
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Relocation allowances**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**Relocation expense claims**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173
Views on H.R. 7638 *(Letter)* 113311
Reimbursement of Expenses *(Decision)* 113324
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**Rent subsidies**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303

**Rental housing**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Repair contracts**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Reports management**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202
The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**Reprocurement**
Protest of Default Termination of Contract *(Decision)* 113290

**Republic of Panama**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**Requests for proposals**
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Protest Against RFP Cancellation *(Decision)* 113347
Protest of Proposal Rejection for Lateness *(Decision)* 113354
Request for Proposal Preparation Cost *(Decision)* 113379
Request for Reconsideration *(Decision)* 113382

**Research and development**
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Research program management**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248

**Residences**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**Resolicitation**
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**Retired Air Force personnel**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**Retired military personnel**
Protest Concerning Military Retired Pay *(Decision)* 113199

**Retirement benefits**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**Retirement pensions**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**Revised requests for proposals**
Protest of Purchase Order Award *(Decision)* 113274

**Rural economic development**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Rural housing programs**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Safety regulation**
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

**Safety standards**
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

**Scientific research**
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Scrap metals**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Senior Executive Service**
Career Challenges in a Changing Civil Service *(Other)* 113264

**Service contracts**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Protest Against Contract Award *(Decision)* 113196
Protest Against Contract Award *(Decision)* 113197
Department of Energy Procurement Activities *(Report)* 113234
Settlement of Alleged Breach of Contract *(Decision)* 113310
Protest of Procedures Used in Army RFQ *(Decision)* 113313
Protest Concerning IFB Cancellation *(Decision)* 113325
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331
Request for Reconsideration *(Decision)* 113349
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Service industry**
Propriety of Agreement *(Decision)* 113210

**Sewells Point (VA)**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Sick leave**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**Small business assistance**
Request for Reconsideration *(Decision)* 113251
Protest of Nonresponsibility Determination *(Decision)* 113291
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
SBA Leveraging Policy *(Letter)* 113364

**Small business contractors**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355

**Small business contracts**
Protest of SBA Refusal to Issue COC *(Decision)* 113214
Protest of HHS Contract Award *(Decision)* 113287
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Protest of Army Contract Award *(Decision)* 113369

**Small business investment companies**
SBA Leveraging Policy *(Letter)* 113364

**Small business set-asides**
Request for Reconsideration *(Decision)* 113212
Protest Against Use of Negotiation Procedures *(Decision)* 113229
Request for Reconsideration *(Decision)* 113251
Protest of HHS Contract Award *(Decision)* 113287
Protest of Nonresponsibility Determination *(Decision)* 113291
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365
Protest of Army Contract Award *(Decision)* 113369
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Social Security benefits**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

**Soil conservation**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

**Solar energy**
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Sole source contracts**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Protest of Marine Corps RFP *(Decision)* 113225
Department of Energy Procurement Activities *(Report)* 113234
Protest of Sole-Source Contract Award *(Decision)* 113259

**Sole source procurement**
Sole-Source Passport Office Lamination Contract *(Report)* 113189
Request for an Advance Decision *(Decision)* 113213
Protest Alleging Improper RFP *(Decision)* 113215
Protest of Sole-Source Contract Award *(Decision)* 113259
Protest Against RFP Cancellation *(Decision)* 113347
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350

**Solicitation cancellation**
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**Solicitation cancellation protests**
Protest of Specification *(Decision)* 113227
Protest Concerning IFB Cancellation *(Decision)* 113325
Protest Against RFP Cancellation *(Decision)* 113347

**Solicitation modifications**
Protest of Purchase Order Award *(Decision)* 113274
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**Solicitation specifications**
Protest Based Upon Solicitation Improprieties *(Decision)* 113175
Protest of Army Contract Award *(Decision)* 113176
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178
Sole-Source Passport Office Lamination Contract *(Report)* 113189
Request for Reconsideration *(Decision)* 113200
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204
Protest Against Bid Rejection *(Decision)* 113205
Protest of SBA Refusal to Issue COC *(Decision)* 113214
Protest Alleging Improper RFP *(Decision)* 113215
Protest of Specification *(Decision)* 113227
Protest of Army Contract Award *(Decision)* 113258
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281
Protest Against Proposed Contract Award *(Decision)* 113323

Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Protest of Proposal Rejection for Lateness *(Decision)* 113354
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356
Request for Reconsideration *(Decision)* 113368
Request for Proposal Preparation Cost *(Decision)* 113379
Request for Reconsideration *(Decision)* 113382
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Special education**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Specifications**
Protest Against RFP Cancellation *(Decision)* 113347
Protest Alleging Solicitation Improprieties *(Decision)* 113348

**Sports**
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**Standards evaluation**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

**State-administered programs**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**State Energy Conservation Program**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**State governments**
Internal Auditing in the Government. An Annotated Bibliography *(Other)* 113321

**State legislation**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**Statistical data**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282
International Affairs: A Listing of Major Journals *(Other)* 113317
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Statutory law**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183
Protest Concerning Military Retired Pay *(Decision)* 113199
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216
Nancy Lee Presson v. United States *(Letter)* 113219
Request for Information on the General Accounting Office *(Letter)* 113257
Request for Waiver of Indebtedness *(Decision)* 113309
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353
Promotion of Officers by Department of Navy *(Letter)* 113366
EEOC's Proposed Regulations *(Letter)* 113391

**Statutory limitation**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226
Request for Reconsideration *(Decision)* 113251

**Storage expense claims**
Views on H.R. 7638 *(Letter)* 113311

**Strategic forces**
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Student aid programs**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**Student loans**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**Subcontractors**
Protest Against Contract Award *(Decision)* 113380

**Subsistence allowances**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Views on H.R. 7638 *(Letter)* 113311

**Supplemental security income program**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190
Supplemental security income program
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Surface to air missiles**
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Swine**
Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

**Systems analysis**
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342

**Systems evaluation**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
Protest of Army Contract Award *(Decision)* 113258
Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333
Department of Defense Should Resolve Major Issues Regarding

Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Systems management**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**Tax administration**
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**Tax law**
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246

**Tax nonpayment**
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332

**Tax shelters**
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246

**Taxes**
Review of Report Concerning Investment Tax Credit *(Report)* 113386

**Technical proposal evaluation**
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204
Protest of Elimination From Competitive Range *(Decision)* 113249
Protest Involving Issues in Litigation *(Decision)* 113352
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**Technical proposals**
Protest of Procedures Used in Army RFQ *(Decision)* 113313
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355

**Technology transfer**
Transportation Issues in the 1980's *(Staff Study)* 113247
Career Challenges in a Changing Civil Service *(Other)* 113264
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Telecommunications operations**
Protest of Army Contract Award *(Decision)* 113258

**Telephone communications operations**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**Temporary duty expense allowances**
Claim for Additional Per Diem *(Decision)* 113177
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**Temporary lodging allowances**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Views on H.R. 7638 *(Letter)* 113311

**Territories and possessions**
The New York Region: The Apple Still Shines *(Other)* 113262

**Test equipment**
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

**Testing**
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**Three Mile Island (PA)**
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

**Timber sales**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**Torts**
Nancy Lee Presson v. United States *(Letter)* 113219

**Trade policies**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**Transfer payments**
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**Transportation costs**
Protest Based Upon Solicitation Improprieties *(Decision)* 113175
Reimbursement for Towing Expenses *(Decision)* 113231
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266
Protest of GSA Settlement Action *(Decision)* 113296

**Transportation expense claims**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Protest of GSA Settlement Action *(Decision)* 113296
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312
Reimbursement of Expenses *(Decision)* 113324
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**Transportation operations**
Request for Reconsideration *(Decision)* 113368

**Transportation rates**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Transportation safety**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Transportation terminals**
Request for Reconsideration *(Decision)* 113368

**Travel allowances**
Claim for Additional Per Diem *(Decision)* 113177
Prohibition Against Use of Travel Agents *(Letter)* 113184
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334
Career Level Council--Annual Report 1980 *(Other)* 113336
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**Travel costs**
Claim for Additional Per Diem *(Decision)* 113177
Prohibition Against Use of Travel Agents *(Letter)* 113184
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**Treasury accounts**
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**Tri-Medical Service Information System**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**Unemployment insurance**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

**Unemployment problem areas**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

**Unemployment rates**
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Unfair competition**
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Request for Reconsideration *(Decision)* 113200
Contract Award Protest *(Decision)* 113207
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**Uniforms**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**United Mexican States**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Unsolicited bids**
The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269

**Untimely bid-protests**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Protest Based Upon Solicitation Improprieties *(Decision)* 113175
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178
Protest Alleging Improper RFP *(Decision)* 113215
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Protest Alleging Solicitation Improprieties *(Decision)* 113348
Request for Reconsideration *(Decision)* 113368

**Untimely procurement-protests**
Protest Against Contract Award *(Decision)* 113196
Protest Against Contract Award *(Decision)* 113197
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204
Protest of Marine Corps RFP *(Decision)* 113225
Protest of HHS Contract Award *(Decision)* 113287
Protest of Procedures Used in Army RFQ *(Decision)* 113313
Protest Concerning IFB Cancellation *(Decision)* 113325
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**Urban development programs**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Utility rates**
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Veterans benefits**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**Veterans disability compensation**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

**Veterans hospitals**
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333

**Veterans pensions**
Protest Concerning Military Retired Pay *(Decision)* 113199
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

**Wage surveys**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Waivers**
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
Request for Reconsideration *(Decision)* 113251

**Warranties**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Waste disposal**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Waste management**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Water conservation**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**Water quality**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

**Water resources development**
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**Water rights**
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**Water supply management**
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**Water transportation operations**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Weapons systems**
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Welfare benefits**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Widowed persons**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**Womens rights**
Women in the Workplace: An Annotated Bibliography *(Other)* 113319
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Working conditions**
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**Workmens compensation**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**Zero-base budgeting**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

# AGENCY/ORGANIZATION INDEX

Includes both Federal agencies and nongovernmental corporate bodies with which the document is concerned, in one alphabetic sequence. Entries include agencies listed in bold face type in the **United States Government Manual** (e.g. documents related to Peace Corps will be listed under Action, etc.)

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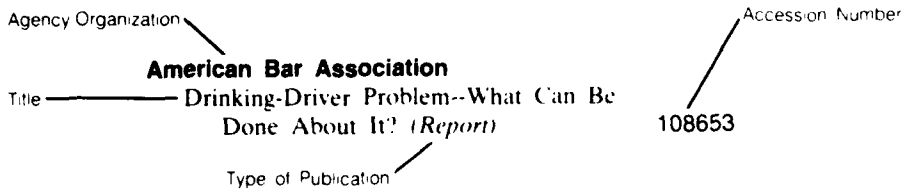




**A & C Building and Industrial Maintenance Corp.**
Request for Reconsideration *(Decision)* 113349

**Adirondack Direct**
Protest of Army Contract Award *(Decision)* 113176

**Administrative Office of the United States Courts**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**AFM, Inc.**
Protest Based Upon Solicitation Improprieties *(Decision)* 113175

**Agency for International Development**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**Air Force Sergeants Association**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**Air Transport Association**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Amdahl Corp.**
Request for Reconsideration *(Decision)* 113382

**American Electronics Laboratories, Inc.**
Request for Reconsideration *(Decision)* 113212

**American Farm Lines, Inc.**
Review of Audit Action *(Decision)* 113211

**American Federation of Government Employees**
Bobby W. Adkins, et al. v. United States *(Letter)* 113220

**American Medical Association**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**American Office Equipment Co.**
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178

**American Psychiatric Association**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**American Tea Association**
Request for Reconsideration *(Decision)* 113280

**American Vault Co., Inc.**
Contract Award Protest *(Decision)* 113207

**Anderson's Complete Cleaning Services**
Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications *(Decision)* 113361

**Andrea Radio Corp.**
Request for Reconsideration *(Decision)* 113200

**Animal and Plant Health Inspection Service**
Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

**Animal Health Products, Inc.**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Arawak Consulting Corp.**
Request for Reconsideration *(Decision)* 113251

**Architect of the Capitol**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**Association of Soil and Foundation Engineers**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**Atlantic Construction & Maintenance Corp.**
Protest of Elimination From Competitive Range *(Decision)* 113249

**Bayou State Trucking Inc.**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174

**Baytron Systems Corp.**
Protest of Contract Termination *(Decision)* 113230

**Big Lost**
Protest of Contract Award by Awardee *(Decision)* 113295

**Bonneville Power Administration**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Buckhorn Rural Water Corp.**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**Bureau of Alcohol, Tobacco and Firearms**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

**Bureau of Education for the Handicapped**
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Bureau of Indian Affairs**
Protest Against Contract Award *(Decision)* 113197
Protest Alleging Solicitation Improprieties *(Decision)* 113348

**Bureau of Land Management**
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Bureau of Prisons**
**U.S. Penitentiary, Atlanta, GA**
Playing on Someone Else's Team, or Working on a Senate Subcommittee *(Other)* 113271

**C. Engel's Sons, Inc.**
Protest Against Contract Award *(Decision)* 113196

**Canada**
Trends in Evaluation *(Other)* 113261

**Capitol Systems Group, Inc.**
Protest of HHS Contract Award *(Decision)* 113287

**Career Consultants, Inc.**
Protest Concerning IFB Cancellation *(Decision)* 113325

**Cascade County Housing for the Developmentally Disabled, Inc.**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc *(Report)* 113190

**Center for Disease Control**
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**Central Intelligence Agency**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Chama Corp.**
Protest Alleging Improper RFP *(Decision)* 113215

**Chameleon Co., Inc.**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**CH2M Hill, Inc.**
Protest Against Contract Award *(Decision)* 113197

**Civil Aeronautics Board**
Transportation Issues in the 1980's *(Staff Study)* 113247
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Commodity Credit Corp.**
Protest of Specification *(Decision)* 113227

**Computer Sciences Corp.**
Protest Against Contract Award *(Decision)* 113209

**Concrete Products Corp.**
Contract Award Protest *(Decision)* 113207

**Dade County, FL**
Protest Against Contract Award *(Decision)* 113209

**Dan-Mar Enterprises, Inc.**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Decilog, Inc.**
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204

**Defense Contract Audit Agency**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Protest Involving Issues in Litigation *(Decision)* 113352

**Defense Logistics Agency**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Contract Administration Services, Los Angeles, CA**
Claim for Service Charges *(Letter)* 113252

**Defense Construction Supply Center**
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**Defense Fuel Supply Center**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250

**Defense Personnel Support Center, Philadelphia, PA**
Request for Reconsideration *(Decision)* 113280

**Defense Mapping Agency**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**Del-Jen, Inc.**
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Del Rio Flying Service, Inc.**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**Department of Agriculture**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192
Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**Department of Commerce**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
Transportation Issues in the 1980's *(Staff Study)* 113247
Protest of Late Proposal Rejection *(Decision)* 113351
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Department of Defense**
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222

DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275
GAO Views on H.R. 7893 *(Testimony)* 113277
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Army and Air Force Exchange Service**
Request for an Advance Decision *(Decision)* 113213

**Defense Personnel Support Center, Philadelphia, PA**
Protest of Nonresponsibility Determination *(Decision)* 113291

**Defense Systems Acquisition Review Council**
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Office of the Secretary**
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Department of Education**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**Special Education and Rehabilitation Services**
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Department of Energy**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
Department of Energy Procurement Activities *(Report)* 113234
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329
Protest Involving Issues in Litigation *(Decision)* 113352
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Solar Energy Research Institute**
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Department of Health, Education, and Welfare**
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

**Department of Health and Human Services**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190
VA Improved Pension Program Some Persons Get More Than They Should and Others Less *(Report)* 113241
Request for Reconsideration *(Decision)* 113251
Protest of HHS Contract Award *(Decision)* 113287
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**Department of Housing and Urban Development**
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248
Alternative Mortgage Instruments--Their Importance to You *(Other)* 113273
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

**Assistant Secretary for Community Planning and Development**
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248

**Department of Justice**
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**Civil Division**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183
Elias Emiliano v. United States *(Letter)* 113217
Jane Idoine v. United States *(Letter)* 113218
Nancy Lee Presson v. United States *(Letter)* 113219
Bobby W. Adkins, et al. v. United States *(Letter)* 113220

**Department of Labor**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331
Request for Reconsideration *(Decision)* 113349
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Job Corps: Arizona Job Corps Center, Phoenix, AZ**
Protest Alleging Improper RFP *(Decision)* 113215

**Department of State**
Sole-Source Passport Office Lamination Contract *(Report)* 113189
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Department of the Air Force**
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Protest Concerning Military Retired Pay *(Decision)* 113199
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226
Protest Against Use of Negotiation Procedures *(Decision)* 113229
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298
Views on H.R. 7638 *(Letter)* 113311
Survey of the Readiness of Minuteman Missiles *(Report)* 113326
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Aerospace and Meteorology Center, Newark, OH**
Bobby W. Adkins, et al. v. United States *(Letter)* 113220

**Air Force Accounting and Finance Center: Headquarters**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**Air National Guard**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222

**Lowry AFB, CO**
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355

**Department of the Army**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Protest of Army Contract Award *(Decision)* 113176
Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Protest Concerning Military Retired Pay *(Decision)* 113199
Request for Reconsideration *(Decision)* 113200
Request for Reconsideration *(Decision)* 113212
Request for an Advance Decision *(Decision)* 113213
Protest of SBA Refusal To Issue COC *(Decision)* 113214
Protest of Contract Termination *(Decision)* 113230
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
Protest of Army Contract Award *(Decision)* 113258
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285
Ground Water Overdrafting Must Be Controlled *(Report)* 113294
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298
Views on H.R. 7638 *(Letter)* 113311
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358
Request for Proposal Preparation Cost *(Decision)* 113379

**Army Armament Materiel Readiness Command, Rock Island, IL**
Protest Based Upon Solicitation Improprieties *(Decision)* 113175

**Army Armament Research and Development Command, Dover, NJ**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**Army Discharge Review Board**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180

**Army Mobility Equipment Research and Development Command**
Protest of Sole-Source Contract Award *(Decision)* 113259

**Army Troop Support and Aviation Materiel Readiness Command, MO**
Protest of Army Contract Award *(Decision)* 113369

**Corps of Engineers**
Protest Against Contract Award *(Decision)* 113380

**Fort Hood, TX**
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Fort Huachuca, AZ**
Protest Concerning IFB Cancellation *(Decision)* 113325

**Hunter Army Airfield, Fort Stewart, GA**
Recoupment of Union Dues *(Decision)* 113253

**Office of the Chief of Engineers: Resources Management Office**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**Sacramento Army Depot, CA**
Request for an Advance Decision *(Decision)* 113213

**Department of the Interior**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244
Ground Water Overdrafting Must Be Controlled *(Report)* 113294
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298
Protest Against Contract Award *(Decision)* 113380

**Contract Appeals Board**
Protest of Default Termination of Contract *(Decision)* 113290

**Department of the Navy**
Cost Estimates for U.S. and Canadian F A-18 Strike Fighters *(Report)* 113188
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193
Protest Concerning Military Retired Pay *(Decision)* 113199
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285
Request for Waiver of Indebtedness *(Decision)* 113309
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360
Promotion of Officers by Department of Navy *(Letter)* 113366
Government's Action To Set Off *(Decision)* 113381

**Aviation Supply Office, Philadelphia, PA**
Protest Against RFP Cancellation *(Decision)* 113347

**Naval Air Station, Patuxent, MD**
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254

**Naval Air Station, Pensacola, FL**
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**Naval Electronic Systems Command**
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

**Naval Facilities Engineering Command: Atlantic Division**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Naval Oceanographic Office, Bay Saint Louis, MS**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**Naval Reserve**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**Navy Accounting and Finance Center**
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**Department of the Treasury**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338
Review of Report Concerning Investment Tax Credit *(Report)* 113386

**Department of Transportation**
Definition of "Minorities" *(Letter)* 113228
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240
Transportation Issues in the 1980's *(Staff Study)* 113247
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Dialogue Systems, Inc.**
Request for Reconsideration *(Decision)* 113251

**Dictaphone Corp.**
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335

**District of Columbia**
Protest Against Contract Award *(Decision)* 113196
Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376

**Drug Enforcement Administration**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

**Dynamics Corp. of America**
**Fermont Division**
Protest of Sole-Source Contract Award *(Decision)* 113259

**Economic Regulatory Administration**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Embassy House, Inc.**
Request for Reconsideration *(Decision)* 113280

**Employment and Training Administration**
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**Energy Information Administration**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

**Energy Research and Development Administration**
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Enviromarine Systems, Inc.**
Protest of Default Termination of Contract *(Decision)* 113290

**Environmental Protection Agency**
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Equal Employment Opportunity Commission**
Administrative Payment of Attorneys Fees *(Decision)* 113314
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330
EEOC's Proposed Regulations *(Letter)* 113391

**Evaluation Research Society of America**
Trends in Evaluation *(Other)* 113261

**Executive Office of the President**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Export-Import Bank of the United States**
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Farmers Home Administration**
Protest Involving Federal Funds *(Decision)* 113322
Protest Against Proposed Contract Award *(Decision)* 113323

**Federal Aviation Administration**
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204
Reimbursement for Towing Expenses *(Decision)* 113231
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Accounting Division**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**Federal Bureau of Investigation**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297
Reimbursement of Expenses *(Decision)* 113324

**Federal Council on Aging**
"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265

**Federal Energy Regulatory Commission**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Federal Highway Administration**
Definition of "Minorities" *(Letter)* 113228
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**Federal Home Loan Bank Board**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**Federal Republic of Germany**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226

**Federal Reserve System**
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**Fifth Generation Systems, Inc.**
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355

**Florida Keys Aquaduct Authority**
Protest Involving Federal Funds *(Decision)* 113322

**Food and Drug Administration**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187
Request for Reconsideration *(Decision)* 113280

**Forest Service**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**Gallatin National Forest, Bozeman, MT**
Protest of Contract Award by Awardee *(Decision)* 113295

**Shoshone National Forest, WY**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**Franklin Institute**
**Research Laboratories**
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**Galler Associates, Inc.**
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**Garrett Church Furniture**
Protest of Army Contract Award *(Decision)* 113176

**General Accounting Office**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201
Request for Information on the General Accounting Office *(Letter)* 113257

**General Binding Corp.**
Sole-Source Passport Office Lamination Contract *(Report)* 113189

**General Mills, Inc.**
Protest of Specification *(Decision)* 113227

**General Motors Corp.**
**Detroit Diesel Allison Division, Indianapolis, IN**
Protest of Sole-Source Contract Award *(Decision)* 113259

**General Services Administration**
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Protests Against Termination Negotiations *(Decision)* 113203
Protest Against Bid Rejection *(Decision)* 113205
Protest Against Contracting Officer's Decision *(Decision)* 113208
Propriety of Agreement *(Decision)* 113210
Review of Audit Action *(Decision)* 113211
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243
The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269
Protest of GSA Settlement Action *(Decision)* 113296
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328
Request for Reconsideration *(Decision)* 113349
Protest of Proposal Rejection for Lateness *(Decision)* 113354
Protest Against Rejection of Bid *(Decision)* 113362
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378
Request for Reconsideration *(Decision)* 113382
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**Region 5, Chicago, IL**
Request for Relief From Liability *(Letter)* 113181

**Geological Survey**
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**George Corp.**
Request for Reconsideration *(Decision)* 113368

**Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc.**
Appropriated Funds and Interest *(Letter)* 113389

**Health Care Financing Administration**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Hood's General Contracting Service**
Protest Against Contract Award *(Decision)* 113196

**Houston Fearless 76, Inc.**
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350

**Hub Testing Laboratories**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**Internal Revenue Service**
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332

**International Business Machines Corp.**
Request for Reconsideration *(Decision)* 113382

**International Development Cooperation Agency**
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277

**Interstate Commerce Commission**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Intersystems, Inc.**
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**J & A Inc.**
Protest Against Contract Award *(Decision)* 113380

**Jerry's U-Drive, Inc.**
Request for Reconsideration *(Decision)* 113368

**Joy Manufacturing Co.**
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**Keco Industries, Inc.**
Protest of Army Contract Award *(Decision)* 113369

**Kimball Forestry Consultants**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**Knorr Pool Systems, Inc.**
Claim for Service Charges *(Letter)* 113252

**Koolshade Corp.**
Protest Challenging Future Solicitation Fairness *(Decision)* 113198

**Lanier Business Products, Inc.**
Protest of Purchase Order Award *(Decision)* 113274

**Law Enforcement Assistance Administration**
Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

**Lockheed-Georgia Co.**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222

**Lone Star Travel Center**
Prohibition Against Use of Travel Agents *(Letter)* 113184

**M. D. Taddie and Co., Inc.**
Protest Against Proposed Contract Award *(Decision)* 113323

**Martin Marietta Corp.**
Protest of Army Contract Award *(Decision)* 113258

**McCaleb Associates, Inc.**
Protest Against Contract Award *(Decision)* 113197

**Merit Systems Protection Board**
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237

**Meteor Communication Consultants**
Protest Involving Issues in Litigation *(Decision)* 113352

**Montana**
**Department of Social and Rehabilitation Services**
Investigation Into Allegations of Wrongdoing by Cascade County

Housing for the Developmentally Disabled, Inc. *(Report)* 113190

**Naremco, Inc.**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**National Aeronautics and Space Administration**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**George C. Marshall Space Flight Center, Huntsville, AL**
Protest of Elimination From Competitive Range *(Decision)* 113249

**National Bureau of Standards**
Protest Challenging Future Solicitation Fairness *(Decision)* 113198

**National Civil Service League**
Career Challenges in a Changing Civil Service *(Other)* 113264

**National Data Communications, Inc.**
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**National Highway Traffic Safety Administration**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266

**National Center for Statistics and Analysis**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**National Institutes of Health**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**National Institute on Aging**
Protest of HHS Contract Award *(Decision)* 113287

**National Oceanic and Atmospheric Administration**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171
Protest of Default Termination of Contract *(Decision)* 113290

**Environmental Research Laboratories**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171

**National Marine Fisheries Service**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171

**National Weather Service**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171

**Office of Management and Computer Services**
Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171

**National Park Service**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**Cuyahoga Valley National Recreation Area, OH**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**National Radio Co., Inc.**
Request for Reconsideration *(Decision)* 113200

**National Science Foundation**
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

**Nevada**
**Department of Employment Security**
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**New Mexico**
**Office of the Attorney General**
Request for Information on the General Accounting Office *(Letter)* 113257

**Nortec Corp.**
Protest Against RFP Cancellation *(Decision)* 113347

**Nuclear Regulatory Commission**
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

**Occupational Safety and Health Review Commission**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**Office of Management and Budget**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**Office of Personnel Management**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236
OPM's Initial Attempts To Implement Demonstration Provisions of the

Civil Service Reform Act of 1978 *(Report)* 113237
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**Office of Planning and Evaluation: Interagency Advisory Group**
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**Office of Science and Technology Policy**
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

**Office of Water Research and Technology**
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**Ohio**
**Bureau of Employment Services**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

**Osan Petroleum Co., Inc.**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250

**Pamlico Canvas Products, Inc.**
Protest of Nonresponsibility Determination *(Decision)* 113291

**Park Poly Bag Corp.**
Protest Against Contracting Officer's Decision *(Decision)* 113208

**Parkway Business Machines Co.**
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178

**Paul F. Pugh and Associated Engineers**
Protests Against Termination Negotiations *(Decision)* 113203

**Preston Carroll Construction Co., Inc.**
Protest Involving Federal Funds *(Decision)* 113322

**Professional Air Traffic Controllers Organization**
Reimbursement for Towing Expenses *(Decision)* 113231

**Prospect Associates**
Protest of HHS Contract Award *(Decision)* 113287

**Prototype Development Associates, Inc.**
Request for Proposal Preparation Cost *(Decision)* 113379

**Public Health Service**
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**Racon, Inc.**
Protest Against Bid Rejection *(Decision)* 113205

**Rally Enterprises**
Protest of Proposal Rejection for Lateness *(Decision)* 113354

**Raven Management Associates, Inc.**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**Raychem Corp.**
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**Reuben Garment International Co., Inc.**
Protest of Nonresponsibility Determination *(Decision)* 113291

**Satellite Systems Engineering, Inc.**
Protest of Late Proposal Rejection *(Decision)* 113351

**Securities and Exchange Commission**
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

**Selective Service System**
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Senate**
**Office Beauty Shop**
Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980 *(Report)* 113394

**Small Business Administration**
Protest of SBA Refusal To Issue COC *(Decision)* 113214
SBA Leveraging Policy *(Letter)* 113364
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**Social Security Administration**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc *(Report)* 113190
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

**Sonic Instruments, Inc.**
Protest Against RFP Cancellation *(Decision)* 113347

**Sunquest Information Systems, Inc.**
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**Supreme Court of the United States**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Systems Consultants, Inc.**
Protest Involving Issues in Litigation *(Decision)* 113352

**Tamsco, Inc.**
Protest of SBA Refusal To Issue COC *(Decision)* 113214

**Technical Services Co., Inc.**
Protest Alleging Solicitation Improprieties *(Decision)* 113348

**Timberline Foresters**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**Township of Augusta, MI**
Protest Against Proposed Contract Award *(Decision)* 113323

**Trident Industrial Products, Inc.**
Protest Against Rejection of Bid *(Decision)* 113362

**U.S. Duracon Corp.**
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254

**U.S. Eagle, Inc.**
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279

**U.S. Financial Services, Inc.**
Protest of Marine Corps RFP *(Decision)* 113225

**United Nations**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278

**United States Coast Guard**
Protest Concerning Military Retired Pay *(Decision)* 113199
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Seventh District, FL**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**United States Court of Claims**
Elias Emiliano v. United States *(Letter)* 113217
Jane Idoine v. United States *(Letter)* 113218
Nancy Lee Presson v. United States *(Letter)* 113219

**United States Customs Service**
Request for Relief From Liability *(Letter)* 113179

**Office of Human Resources**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**United States District Court**
**District of District of Columbia**
Protest Involving Issues in Litigation *(Decision)* 113352

**United States Marine Corps**
Claim for Additional Per Diem *(Decision)* 113177
Protest Concerning Military Retired Pay *(Decision)* 113199
Protest of Marine Corps RFP *(Decision)* 113225

**United States Postal Service**
Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342

**University of Illinois, Chicago, IL**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**Urban Mass Transportation Administration**
Protest Against Contract Award *(Decision)* 113209

**Veterans Administration**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Contract Award Protest *(Decision)* 113207
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241
Protest of Purchase Order Award *(Decision)* 113274
Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333
Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications *(Decision)* 113361
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**Marketing Center, Hines, IL**
Claim of Mistake in Bid *(Decision)* 113370

**Office of Data Management and Telecommunications**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**Washtenaw, MT**
**Circuit Court**
Protest Against Proposed Contract Award *(Decision)* 113323

**Will Ross, Inc.**
Claim of Mistake in Bid *(Decision)* 113370

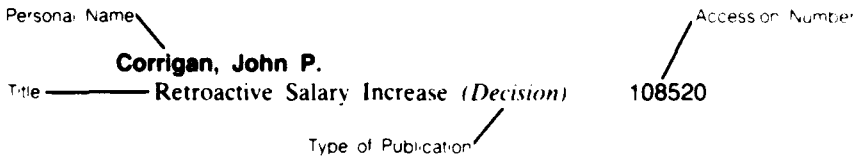
**Wismer and Becker Contracting Engineers**
Protest Against Contract Award *(Decision)* 113209

**Yellow Freight System, Inc.**
Protest of GSA Settlement Action *(Decision)* 113296

# PERSONAL NAME INDEX

Includes names of individuals who are the subjects of the documents

SAMPLE ENTRY:





**Adams, Doris B.**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180

**Adkins, Bobby W.**
Bobby W. Adkins, et al. v. United States *(Letter)* 113220

**Brown, Stuart T.**
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**Campioli, Mario E.**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**Davis, Richard B.**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**Emiliano, Elias**
Elias Emiliano v. United States *(Letter)* 113217

**Ensign, William L.**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**Fontaine, Clark E.**
Reimbursement for Towing Expenses *(Decision)* 113231

**Ford, Joan B.**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**Gabriel, Anthony J.**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**Harrison, John G., Jr.**
Request for Waiver of Indebtedness *(Decision)* 113309

**Hearns, Theophilus A.**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**Hefner, Dennis L.**
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Hensel, Richard**
Request for Relief From Liability *(Letter)* 113181

**Hollins, Vernie**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**Idoine, Jane**
Jane Idoine v. United States *(Letter)* 113218

**Kall, Sheldon G.**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**Mangiacotti, Walter M.**
Reimbursement of Expenses *(Decision)* 113324

**Parrish, William I.**
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**Pistnick, Allen H.**
Views on H.R. 7638 *(Letter)* 113311

**Presson, Nancy L.**
Nancy Lee Presson v. United States *(Letter)* 113219

**Saker, Ernest F.**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**Seiberling, John F.**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**Sims, Jerry D.**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**Smith, Wesley T.**
Government's Action To Set Off *(Decision)* 113381

**Stanbrough, Beth**
Prohibition Against Use of Travel Agents *(Letter)* 113184

**Summers, Harry E.**
Bobby W. Adkins, et al. v. United States *(Letter)* 113220

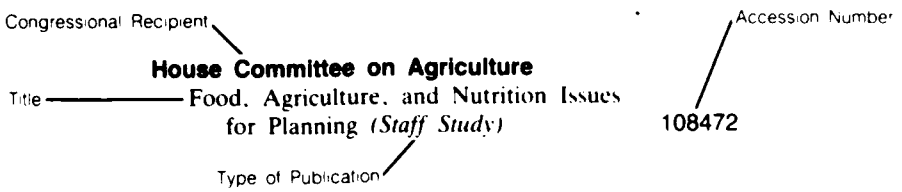
**Taruski, Algis G.**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

# CONGRESSIONAL INDEX

Includes entries under relevant Congressional bodies and individual Representatives and Senators to whom documents are addressed. Entries are grouped under the following headings:

Congress (as a whole)
House of Representatives
House Committees
Senate
Senate Committees
Joint Committees
Members (Individual)

SAMPLE ENTRY:





## Congress

**Congress**

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

Ground Water Overdrafting Must Be Controlled *(Report)* 113294

The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

Proposed Title V to S. 262 *(Report)* 113385

Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980 *(Report)* 113394

Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

Congressional Oversight and the Legislative Veto *(Other)* 113400

## House Committees

**House Committee on Agriculture**

**Domestic Marketing, Consumer Relations, and Nutrition Subcommittee**

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

**Family Farms, Rural Development, and Special Studies Subcommittee**

Parity and the Agricultural Sector *(Testimony)* 113346

**House Committee on Appropriations**

Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

Consolidating Military Base Support Services Could Save Billions *(Report)* 113235

GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275

Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**House Committee on Armed Services**

Consolidating Military Base Support Services Could Save Billions *(Report)* 113235

Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Investigations Subcommittee**

Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**House Committee on Banking, Finance and Urban Affairs**

Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

**Financial Institutions Supervision, Regulation, and Insurance Subcommittee**

International Activities of Banks *(Testimony)* 113401

**House Committee on Government Operations**

VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269

Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

Survey of the Readiness of Minuteman Missiles *(Report)* 113326

Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Government Activities and Transportation Subcommittee**
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

**Legislation and National Security Subcommittee**
GAO Views on H.R. 7893 *(Testimony)* 113277

**House Committee on Interior and Insular Affairs**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**Energy and the Environment Subcommittee**
Department of Energy Procurement Activities *(Report)* 113234

**House Committee on Interstate and Foreign Commerce**
**Energy and Power Subcommittee**
Department of Energy Procurement Activities *(Report)* 113234
Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

**Health and the Environment Subcommittee**
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Oversight and Investigations Subcommittee**
Department of Energy Procurement Activities *(Report)* 113234

**Transportation and Commerce Subcommittee**
Department of Energy Procurement Activities *(Report)* 113234

**House Committee on Post Office and Civil Service**
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**Compensation and Employee Benefits Subcommittee**
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236
Don't Come to Work on October 1, or a Clearly Deficient Situation *(Other)* 113398

**House Committee on Public Works and Transportation**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Aviation Subcommittee**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Oversight and Review Subcommittee**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**House Committee on Science and Technology**
**Energy Research and Production Subcommittee**
Department of Energy Procurement Activities *(Report)* 113234

**House Committee on the Judiciary**
Views on H.R. 7638 *(Letter)* 113311

**House Committee on Veterans' Affairs**
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

**Special Investigations Subcommittee**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333
Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and or Software *(Testimony)* 113384

**House Committee on Ways and Means**
**Oversight Subcommittee**
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332
Review of Report Concerning Investment Tax Credit *(Report)* 113386

## Senate Committees

**Senate Committee on Agriculture, Nutrition, and Forestry**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Senate Committee on Appropriations**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308
Survey of the Readiness of Minuteman Missiles *(Report)* 113326
Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

**Defense Subcommittee**
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Senate Committee on Armed Services**
Consolidating Military Base Support Services Could Save Billions *(Report)* 113235
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Manpower and Personnel Subcommittee**
Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Senate Committee on Commerce, Science and Transportation**
**Science, Technology and Space Subcommittee**
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

**Senate Committee on Energy and Natural Resources**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
Department of Energy Procurement Activities *(Report)* 113234

**Senate Committee on Environment and Public Works**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**Senate Committee on Governmental Affairs**
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308
Survey of the Readiness of Minuteman Missiles *(Report)* 113326
Solar Energy Research Institute and Regional Solar Energy Centers Impediments to Their Effective Use *(Report)* 113374
Proposed Title V to S. 262 *(Report)* 113385

**Civil Service and General Services Subcommittee**
Department of Energy Procurement Activities *(Report)* 113234

**Federal Spending Practices and Open Government Subcommittee**
Department of Energy Procurement Activities *(Report)* 113234
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

**Governmental Efficiency and the District of Columbia Subcommittee**
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376

**Intergovernmental Relations Subcommittee**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**Permanent Subcommittee on Investigations**
Playing on Someone Else's Team: or Working on a Senate Subcommittee *(Other)* 113271

**Senate Committee on Labor and Human Resources**
**Handicapped Subcommittee**
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Senate Committee on Veterans' Affairs**
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

**Senate Select Committee on Small Business**
**Government Procurement Subcommittee**
Department of Energy Procurement Activities *(Report)* 113234

## Joint Committees

**Joint Committee on Taxation**
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246

## Members

**Anderson, Rep. Glenn M.**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Anderson, Rep. John B.**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304

**Baucus, Sen. Max S.**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**Boggs, Rep. Lindy**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180

**Brooks, Rep. Jack**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238
The Road to a Billion Dollar Saving: A Team Effort *(Other)* 113269
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Burton, Rep. John L.**
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

**Chiles, Sen. Lawton**
Department of Energy Procurement Activities *(Report)* 113234
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

**Cleveland, Rep. James C.**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**Coelho, Rep. Tony**
Definition of "Minorities" *(Letter)* 113228

**Cranston, Sen. Alan**
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

**Danforth, Sen. John C.**
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188

**Daniel, Rep. Dan**
Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**Dickinson, Rep. William L.**
Promotion of Officers by Department of Navy *(Letter)* 113366

**Dingell, Rep. John D.**
Department of Energy Procurement Activities *(Report)* 113234

**Eagleton, Sen. Thomas F.**
Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376

**Eckhardt, Rep. Bob**
Department of Energy Procurement Activities *(Report)* 113234

**Florio, Rep. James J.**
Department of Energy Procurement Activities *(Report)* 113234

**Gibbons, Rep. Sam M.**
Review of Report Concerning Investment Tax Credit *(Report)* 113386

**Gradison, Rep. Willis D., Jr.**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303

**Hayakawa, Sen. S. I. (Sam)**
Claim for Service Charges *(Letter)* 113252

**Helms, Sen. Jesse A.**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300

**Horton, Rep. Frank**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Inouye, Sen. Daniel K.**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**Jackson, Sen. Henry M.**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
Department of Energy Procurement Activities *(Report)* 113234

**Johnson, Rep. Harold T.**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Leach, Rep. James A. S.**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**Leland, Rep. Mickey**
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**Levitas, Rep. Elliott H.**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Magnuson, Sen. Warren G.**
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

**Marlenee, Rep. Ronald C.**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190

**McCormack, Rep. Mike**
Department of Energy Procurement Activities *(Report)* 113234

**McKinney, Rep. Stewart B.**
Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

**Michel, Rep. Robert H.**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302

**Mineta, Rep. Norman Y.**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**Morgan, Sen. Robert B.**
Department of Energy Procurement Activities *(Report)* 113234

**Motti, Rep. Ronald M.**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186

**Nelson, Sen. Gaylord**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305

**Panetta, Rep. Leon E.**
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**Percy, Sen. Charles H.**
Sole-Source Passport Office Lamination Contract *(Report)* 113189
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Pryor, Sen. David H.**
Department of Energy Procurement Activities *(Report)* 113234

**Randolph, Sen. Jennings**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**Rangel, Rep. Charles B.**
SBA Leveraging Policy *(Letter)* 113364

**Ribicoff, Sen. Abraham A.**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374
Proposed Title V to S. 262 *(Report)* 113385

**Ritter, Rep. Don**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301

**Roberts, Rep. Ray**
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

**Rodino, Rep. Peter W., Jr.**
Views on H.R. 7638 *(Letter)* 113311

**Roth, Sen. William V., Jr.**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**Schroeder, Rep. Patricia**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**Schweiker, Sen. Richard S.**
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**Seiberling, Rep. John F.**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**Smith, Rep. Virginia**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Solomon, Rep. Gerald B. H.**
GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275

**Spellman, Rep. Gladys N.**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236
Don't Come to Work on October 1, or a Clearly Deficient Situation *(Other)* 113398

**Stevenson, Sen. Adlai E.**
The Office of Science and Technology Policy Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

**Stokes, Rep. Louis**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

**Talmadge, Sen. Herman E.**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Udall, Rep. Morris K.**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
Department of Energy Procurement Activities *(Report)* 113234

**Whitehurst, Rep. G. William**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Whitten, Rep. Jamie L.**
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

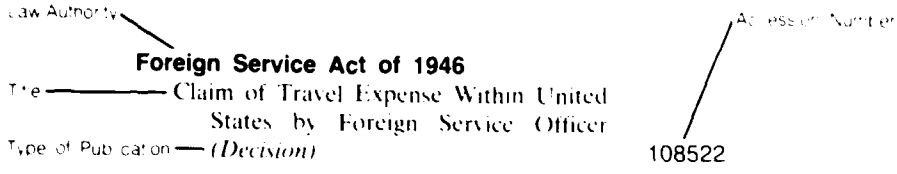
**Wright, Rep. James C., Jr.**
Prohibition Against Use of Travel Agents *(Letter)* 113184

# LAW/AUTHORITY INDEX

Includes entries under the law, or other statutory authority, cited as pertinent to the matters dealt with by the document. Citation format follows **A Uniform System of Citations** (latest edition). Entries are grouped under the following headings:

Code of Federal Regulations
Decisions of the Comptroller General
Executive Orders
Federal Procurement Regulations
Federal Register
Law Name
Law Number
Miscellaneous Authorities
U.S. Code
U.S. Statutes-at-Large

SAMPLE ENTRY:




## Code of Federal Regulations

**4 C.F.R. 20**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Protest Alleging Improper RFP *(Decision)* 113215
Protest of Specification *(Decision)* 113227
Request for Reconsideration *(Decision)* 113251
Protest of Contract Award by Awardee *(Decision)* 113295
Protest Concerning IFB Cancellation *(Decision)* 113325
Protest Against Contract Award *(Decision)* 113380

**4 C.F.R. 20.1**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**4 C.F.R. 20.1(a)**
Protest Against Contracting Officer's Decision *(Decision* 113208

**4 C.F.R. 20.2**
Protest Based Upon Solicitation Improprieties *(Decision)* 113175
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**4 C.F.R. 20.2(a)**
Protest Against Contract Award *(Decision)* 113197
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Protest of Procedures Used in Army RFQ *(Decision)* 113313
Protest Concerning IFB Cancellation *(Decision)* 113325
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350

**4 C.F.R. 20.2(b)**
Protest Concerning IFB Cancellation *(Decision)* 113325

**4 C.F.R. 20.2(b)(1)**
Protest Against Contract Award *(Decision)* 113196
Protest Against Contract Award *(Decision)* 113197
Protest Alleging Improper RFP *(Decision)* 113215
Protest of HHS Contract Award *(Decision)* 113287
Protest Alleging Solicitation Improprieties *(Decision)* 113348
Request for Reconsideration *(Decision)* 113368

**4 C.F.R. 20.2(b)(2)**
Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178
Protest Against Contract Award *(Decision)* 113197
Protest of Marine Corps RFP *(Decision)* 113225
Request for Reconsideration *(Decision)* 113251
Protest of Army Contract Award *(Decision)* 113258
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279
Protest of HHS Contract Award *(Decision)* 113287
Protest Concerning IFB Cancellation *(Decision)* 113325
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**4 C.F.R. 20.2(c)**
Protest Against Contract Award *(Decision)* 113197
Protest of Marine Corps RFP *(Decision)* 113225

**4 C.F.R. 20.3(d)**
Request for Reconsideration *(Decision)* 113251

**4 C.F.R. 20.9**
Request for Reconsideration *(Decision)* 113212

**4 C.F.R. 20.9(a)**
Request for Reconsideration *(Decision)* 113280

**4 C.F.R. 20.10**
Protest of Army Contract Award *(Decision)* 113176

**4 C.F.R. 21**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**4 C.F.R. 31.5**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**4 C.F.R. 52.3**
Prohibition Against Use of Travel Agents *(Letter)* 113184
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**4 C.F.R. 53**
Protest of GSA Settlement Action *(Decision)* 113296

**5 C.F.R. 550.321**
Recoupment of Union Dues *(Decision)* 113253

**5 C.F.R. 550.322(c)**
Recoupment of Union Dues *(Decision)* 113253

**5 C.F.R. 550.324**
Recoupment of Union Dues *(Decision)* 113253

**5 C.F.R. 630.502**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**9 C.F.R. 76**
Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

**12 C.F.R. 226.4**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**13 C.F.R. 125.5**
Protest Involving Issues in Litigation *(Decision)* 113352

**13 C.F.R. 125.5(e)**
Protest of SBA Refusal To Issue COC *(Decision)* 113214

**21 C.F.R. 180.1(a)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 C.F.R. 310.100**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 C.F.R. 570.30**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**23 C.F.R. 230**
Definition of "Minorities" *(Letter)* 113228

**28 C.F.R. 42.415**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**29 C.F.R. 4.4**
Request for Reconsideration *(Decision)* 113349

**29 C.F.R. 4.132**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**29 C.F.R. 4.141**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**29 C.F.R. 541**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**41 C.F.R. 5-1.605(c)(3)**
Protest Against Contracting Officer's Decision *(Decision)* 113208

**41 C.F.R. 9-3.800**
Protest Involving Issues in Litigation *(Decision)* 113352

**41 C.F.R. 9-3.805-50(e)**
Protest Involving Issues in Litigation *(Decision)* 113352

## Decisions of the Comptroller General

**4 Comp. Gen. 891**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**5 Comp. Gen. 255**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**7 Comp. Gen. 507**
Propriety of Agreement *(Decision)* 113210

**14 Comp. Gen. 414**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**16 Comp. Gen. 803**
Propriety of Agreement *(Decision)* 113210

**21 Comp. Gen. 997**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**23 Comp. Gen. 713**
Claim for Additional Per Diem *(Decision)* 113177

**24 Comp. Gen. 439**
Claim for Additional Per Diem *(Decision)* 113177

**31 Comp. Gen. 485**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**35 Comp. Gen. 85**
Propriety of Agreement *(Decision)* 113210

**35 Comp. Gen. 306**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**37 Comp. Gen. 627**
Claim for Additional Per Diem *(Decision)* 113177

**37 Comp. Gen. 753**
Review of Audit Action *(Decision)* 113211

**38 Comp. Gen. 531**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**39 Comp. Gen. 653**
Protest Against Contract Award *(Decision)* 113209

**42 Comp. Gen. 604**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**42 Comp. Gen. 607**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**44 Comp. Gen. 405**
Claim for Additional Per Diem *(Decision)* 113177

**45 Comp. Gen. 800**
Protest Against Contract Award *(Decision)* 113209

**47 Comp. Gen. 325**
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**47 Comp. Gen. 405**
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**48 Comp. Gen. 19**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**48 Comp. Gen. 119**
Claim for Additional Per Diem *(Decision)* 113177

**49 Comp. Gen. 761**
Protest of Contract Award by Awardee *(Decision)* 113295

**50 Comp. Gen. 388**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**51 Comp. Gen. 724**
Review of Audit Action *(Decision)* 113211

**51 Comp. Gen. 736**
Claim for Additional Per Diem *(Decision)* 113177

**52 Comp. Gen. 20**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**52 Comp. Gen. 78**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**52 Comp. Gen. 211**
Protest of GSA Settlement Action *(Decision)* 113296

**52 Comp. Gen. 319**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**53 Comp. Gen. 102**
Protest of Army Contract Award *(Decision)* 113369

**53 Comp. Gen. 496**
Protest of Nonresponsibility Determination *(Decision)* 113291

**53 Comp. Gen. 553**
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254

**53 Comp. Gen. 586**
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**53 Comp. Gen. 670**
Protest of Sole-Source Contract Award *(Decision)* 113259

**54 Comp. Gen. 47**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**54 Comp. Gen. 66**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Request for Reconsideration *(Decision)* 113368

**54 Comp. Gen. 237**
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**54 Comp. Gen. 600**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**54 Comp. Gen. 767**
Protest Against Contract Award *(Decision)* 113380

**54 Comp. Gen. 824**
Propriety of Agreement *(Decision)* 113210

**54 Comp. Gen. 896**
Protest Involving Issues in Litigation *(Decision)* 113352

**54 Comp. Gen. 921**
Recoupment of Union Dues *(Decision)* 113253

**55 Comp. Gen. 135**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**55 Comp. Gen. 397**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**55 Comp. Gen. 469**
Protest of Army Contract Award *(Decision)* 113369

**55 Comp. Gen. 539**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**55 Comp. Gen. 564**
Reimbursement for Towing Expenses *(Decision)* 113231

**55 Comp. Gen. 656**
Contract Award Protest *(Decision)* 113207

**55 Comp. Gen. 693**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**55 Comp. Gen. 715**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**55 Comp. Gen. 1051**
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**55 Comp. Gen. 1077**
Review of Audit Action *(Decision)* 113211

**55 Comp. Gen. 1107**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**55 Comp. Gen. 1197**
Reimbursement for Towing Expenses *(Decision)* 113231

**55 Comp. Gen. 1241**
Claim for Additional Per Diem *(Decision)* 113177

**56 Comp. Gen. 160**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**56 Comp. Gen. 289**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**56 Comp. Gen. 427**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**56 Comp. Gen. 432**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**56 Comp. Gen. 649**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**56 Comp. Gen. 653**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**56 Comp. Gen. 654**
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**56 Comp. Gen. 740**
Protest Concerning Military Retired Pay *(Decision)* 113199

**57 Comp. Gen. 125**
Promotion of Officers by Department of Navy *(Letter)* 113366

**57 Comp. Gen. 140**
Protest of HHS Contract Award *(Decision)* 113287

**57 Comp. Gen. 244**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**57 Comp. Gen. 250**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**57 Comp. Gen. 379**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**57 Comp. Gen. 501**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**57 Comp. Gen. 865**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335

**57 Comp. Gen. 867**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**58 Comp. Gen. 94**
Request for an Advance Decision *(Decision)* 113213

**58 Comp. Gen. 105**
Protest Involving Issues in Litigation *(Decision)* 113352

**58 Comp. Gen. 160**
Protest Against Contract Award *(Decision)* 113380

**58 Comp. Gen. 214**
Protest of Contract Award by Awardee *(Decision)* 113295

**58 Comp. Gen. 248**
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350

**58 Comp. Gen. 297**
Protest Against Contract Award *(Decision)* 113380

**58 Comp. Gen. 385**
Reimbursement of Expenses *(Decision)* 113324

**58 Comp. Gen. 706**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**59 Comp. Gen. 43**
Protest Against Rejection of Bid *(Decision)* 113362

**59 Comp. Gen. 101**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**59 Comp. Gen. 122**
Request for Reconsideration *(Decision)* 113212

**59 Comp. Gen. 140**
Protest of Army Contract Award *(Decision)* 113369

## Executive Orders

**Executive Order 10982**
Recoupment of Union Dues *(Decision)* 113253

**Executive Order 11491**
Reimbursement for Towing Expenses *(Decision)* 113231

**Executive Order 11625**
Definition of "Minorities" *(Letter)* 113228

**Executive Order 11764**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Executive Order 12039**
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

**Executive Order 12066**
GAO Views on H.R. 7893 *(Testimony)* 113277

## Federal Procurement Regulations

**F.P.R. 1-1.03-2(a)**
Protest of HHS Contract Award *(Decision)* 113287

**F.P.R. 1-1.12**
Protest Involving Issues in Litigation *(Decision)* 113352

**F.P.R. 1-1.605-1(a)(1)(i)**
Protest Against Contracting Officer's Decision *(Decision)* 113208

**F.P.R. 1-1.708-2**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**F.P.R. 1-1.1003-3(c)**
Protest Against Contract Award *(Decision)* 113197

**F.P.R. 1-1.1205-2**
Request for Reconsideration *(Decision)* 113368

**F.P.R. 1-2.404-1(c)**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**F.P.R. 1-2.407-8(a)(1)**
Protest Against Contract Award *(Decision)* 113197

**F.P.R. 1-3.801-3(a)**
Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233

**F.P.R. 1-3.802.1**
Protest of Proposal Rejection for Lateness *(Decision)* 113354

**F.P.R. 1-3.802-2**
Protest of HHS Contract Award *(Decision)* 113287

**F.P.R. 1-3.805-1**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**F.P.R. 1-3.807-2(a)**
Protest Involving Issues in Litigation *(Decision)* 113352

**F.P.R. 1-4.1001**
Protest Against Contract Award *(Decision)* 113197

**F.P.R. 1-4.1004(a)**
Protests Against Termination Negotiations *(Decision)* 113203

**F.P.R. 1-16.901-254**
Protests Against Termination Negotiations *(Decision)* 113203

## Federal Register

**43 Fed. Reg. 19807**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**44 Fed. Reg. 19035**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**44 Fed. Reg. 62514**
Protest Against Contract Award *(Decision)* 113380

**45 Fed. Reg. 15549**
Protest Against Contracting Officer's Decision *(Decision)* 113208

**45 Fed. Reg. 21171**
Definition of "Minorities" *(Letter)* 113228

**45 Fed. Reg. 24130**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**45 Fed. Reg. 31422**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**45 Fed. Reg. 55689**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182

## Law Name

**Administrative Procedure Act**
The Administrative Process: An Overview *(Other)* 113399

**Age Discrimination in Employment Act of 1967**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**Airline Deregulation Act of 1978**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**Alaska Native Claims Settlement Act**
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Alaska Natural Gas Transportation Act of 1976**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Alaska Statehood Act**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Annual and Sick Leave Act**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**Antideficiency Act**
Propriety of Agreement *(Decision)* 113210
Don't Come to Work on October 1: or a Clearly Deficient Situation *(Other)* 113398

**Armed Services Procurement Act of 1947**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**Atomic Energy Act of 1954**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**Automatic Data Processing Equipment Act**
Protest Against Contract Award *(Decision)* 113197
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**Bank Holding Company Act**
International Activities of Banks *(Testimony)* 113401

**Black Lung Benefits Reform Act of 1977**
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**Budget and Accounting Act**
Request for Information on the General Accounting Office *(Letter)* 113257
A History of the Claims Division *(Other)* 113263

**Buy Indian Act**
Protest Against Contract Award *(Decision)* 113197
Protest Against Contract Award *(Decision)* 113380

**Chrysler Corporation Loan Guarantee of 1979**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Civil Rights Act**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Civil Rights Act of 1964**
Administrative Payment of Attorneys Fees *(Decision)* 113314
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330
EEOC's Proposed Regulations *(Letter)* 113391

**Civil Rights of Institutionalized Persons Act**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**Civil Service Reform Act of 1978**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182
Reimbursement for Towing Expenses *(Decision)* 113231
OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237
Career Challenges in a Changing Civil Service *(Other)* 113264
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**Claims Collection Act**
A History of the Claims Division *(Other)* 113263

**Classification Act**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Clean Air Act Amendments of 1977**
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Coal Mine Health and Safety Act of 1969 (Federal)**
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**Communications Act of 1934**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Comprehensive Employment and Training Act of 1973**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**Congressional Budget Act of 1974**

Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**Davis-Bacon Act (Wage Rates)**

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Department of Defense Appropriation Act, 1978**

Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**Department of Defense Appropriation Authorization Act, 1976**

Protest Concerning Military Retired Pay *(Decision)* 113199

**Department of Energy Organization Act**

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**Department of Justice Appropriation Authorization Act, Fiscal Year 1980**

Reimbursement of Expenses *(Decision)* 113324

**Disaster Relief Act**

Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Dockery Act (Accounting)**

A History of the Claims Division *(Other)* 113263

**Drug Amendments of 1962**

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Edge Act (Foreign Banking)**

International Activities of Banks *(Testimony)* 113401

**Education for All Handicapped Children Act of 1975**

The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Education of the Handicapped Act**

The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**Employees' Uniform Allowance Act**

Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**Employment Act of 1946**

A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Energy Conservation and Production Act**

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**Energy Policy and Conservation Act**

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**Energy Reorganization Act of 1974**

Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Energy Security Act**

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**Fair Labor Standards Act of 1938**

Administrative Payment of Attorneys Fees *(Decision)* 113314

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Food Additives Amendment of 1958**

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Food and Agriculture Act of 1977**

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

**Food, Drug and Cosmetic Act**

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**Foreign Assistance Act of 1961**

Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**Foreign Assistance and Related Programs Appropriations Act, 1979**

Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**Foreign Service Act Amendments of 1956**

Reimbursement of Expenses *(Decision)* 113324

**Freedom of Information Act**

Request for Reconsideration *(Decision)* 113251

Protest of Navy Failure To Provide Requested Information *(Decision)* 113254

Request for Reconsideration *(Decision)* 113280

Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**General Accounting Office Act of 1980**

The General Accounting Office Act of 1980: The End of a Long Legislative Road *(Other)* 113268

**Government Corporation Control Act**

A History of the Claims Division *(Other)* 113263

**Health Planning and Resources Development Act**

Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Higher Education Act of 1965**

Status of Special National Direct Student Loan Funds *(Report)* 113357

**Highway Act of 1966**

Transportation Issues in the 1980's *(Staff Study)* 113247

**Highway Safety Act of 1966**

Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239

Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

Transportation Issues in the 1980's *(Staff Study)* 113247

Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266

**Home Energy Assistance Act of 1980**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**Housing and Community Development Act of 1974**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**Impoundment Control Act of 1974**
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Income Tax Act**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**Indian Self-Determination Act**
Protest Against Contract Award *(Decision)* 113380

**Inspector General Act of 1978**
Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321

**Internal Revenue Code (IRC)**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256
Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332

**International Air Transportation Competition Act of 1979**
Transportation Issues in the 1980's *(Staff Study)* 113247

**International Banking Act 1978**
International Activities of Banks *(Testimony)* 113401

**Legislative Reorganization Act of 1970**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

**McFadden Act (Banking)**
International Activities of Banks *(Testimony)* 113401

**Medicare-Medicaid Anti-Fraud and Abuse Amendments**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Merchant Marine Act, 1936**
Reimbursement of Expenses *(Decision)* 113324

**Merchant Marine Act, 1970**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Meritorious Claims Act**
Views on H.R. 7638 *(Letter)* 113311

**Minority Contracting Act**
Protest Against Contract Award *(Decision)* 113196

**Motor Carrier Act of 1980**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Motor Vehicle Information and Cost Savings Act**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Transportation Issues in the 1980's *(Staff Study)* 113247

**National Energy Conservation Policy Act**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**National Science and Technology Policy, Organization, and Priorities Act of 1976**
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

**National Traffic and Motor Vehicle Safety Act of 1966**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Transportation Issues in the 1980's *(Staff Study)* 113247

**Natural Gas Policy Act of 1978**
Natural Gas Incremental Pricing A Complex Program With Uncertain Results and Impacts *(Report)* 113224
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Nuclear Non-Proliferation Act 1978**
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Panama Canal Act of 1979**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**Passenger Railroad Rebuilding Act of 1980**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Power Act (Water)**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Property and Administrative Services Act**
Propriety of Agreement *(Decision)* 113210
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**Public Buildings Act of 1959**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**Public Utility Regulatory Policies Act of 1978**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**Rail Passenger Service Act of 1970**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Railroad Revitalization and Regulatory Reform Act of 1976**
Transportation Issues in the 1980's *(Staff Study)* 113247

**Rehabilitation Act of 1973**
Administrative Payment of Attorneys Fees *(Decision)* 113314
EEOC's Proposed Regulations *(Letter)* 113391

**Salary Act of 1967**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Securities Act of 1933**
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

**Securities Exchange Act of 1934**
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

**Service Contract Act of 1965**
Request for Reconsideration *(Decision)* 113349
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Small Business Act**
Request for Reconsideration *(Decision)* 113212
Protest of SBA Refusal To Issue COC *(Decision)* 113214
Definition of "Minorities" *(Letter)* 113228
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355
SBA Leveraging Policy *(Letter)* 113364
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**Social Security Act**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Social Security Amendments of 1967**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Social Security Amendments of 1972**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**Social Security Amendments of 1977**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**Soil and Water Resources Conservation Act of 1977**
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

**Solar Energy Research, Development, and Demonstration Act of 1974**
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**Tax Reform Act of 1969**
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Tax Reform Act of 1976**
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**Tort Claims Act**
Propriety of Agreement *(Decision)* 113210

**Toxic Substances Control Act**
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Truth in Lending Act**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**Truth in Negotiations Act (Military Procurement)**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**Unemployment Tax Act**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Uniform Retirement Date Act**
Protest Concerning Military Retired Pay *(Decision)* 113199

**Wagner-Peyser Act (Federal Employment Service)**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**Walsh-Healey Act (Government Contracts)**
Protest of Army Contract Award *(Decision)* 113369
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

## Law Number

**P.L. 79-248**
A History of the Claims Division *(Other)* 113263

**P.L. 79-305**
Protest Concerning Military Retired Pay *(Decision)* 113199

**P.L. 85-929**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**P.L. 86-43**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**P.L. 87-653**
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**P.L. 87-781**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**P.L. 89-306**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**P.L. 90-206**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**P.L. 90-248**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**P.L. 90-321**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**P.L. 91-379**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**P.L. 92-603**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**P.L. 93-259**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**P.L. 93-344**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**P.L. 93-438**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**P.L. 93-473**
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**P.L. 93-555**
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**P.L. 93-641**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**P.L. 94-106**
Protest Concerning Military Retired Pay *(Decision)* 113199

**P.L. 94-142**
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**P.L. 94-210**
Transportation Issues in the 1980's *(Staff Study)* 113247

**P.L. 94-258**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

**P.L. 94-282**
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

**P.L. 94-305**
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**P.L. 94-385**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**P.L. 95-88**
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276
GAO Views on H.R. 7893 *(Testimony)* 113277

**P.L. 95-111**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**P.L. 95-142**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**P.L. 95-147**
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**P.L. 95-163**
Transportation Issues in the 1980's *(Staff Study)* 113247

**P.L. 95-206**
EEOC's Proposed Regulations *(Letter)* 113391

**P.L. 95-216**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**P.L. 95-256**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**P.L. 95-366**
Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**P.L. 95-481**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**P.L. 95-504**
Transportation Issues in the 1980's *(Staff Study)* 113247
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**P.L. 95-507**
Request for Reconsideration *(Decision)* 113212
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**P.L. 95-602**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**P.L. 95-619**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**P.L. 95-621**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

**P.L. 96-22**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**P.L. 96-70**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**P.L. 96-79**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**P.L. 96-123**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**P.L. 96-125**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**P.L. 96-126**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**P.L. 96-132**
Reimbursement of Expenses *(Decision)* 113324

**P.L. 96-146**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**P.L. 96-185**
Transportation Issues in the 1980's *(Staff Study)* 113247

**P.L. 96-192**
Transportation Issues in the 1980's *(Staff Study)* 113247

**P.L. 96-193**
Transportation Issues in the 1980's *(Staff Study)* 113247

**P.L. 96-223**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**P.L. 96-226**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**P.L. 96-254**
Transportation Issues in the 1980's *(Staff Study)* 113247

**P.L. 96-280**
U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**P.L. 96-294**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**P.L. 96-296**
Transportation Issues in the 1980's *(Staff Study)* 113247

## Miscellaneous Authorities

**A.F.R. 36-89**
Promotion of Officers by Department of Navy *(Letter)* 113366

**A.R. 135-155, para. 3-14**
Promotion of Officers by Department of Navy *(Letter)* 113366

**A.R. 624-100, para. 2-8(c)**
Promotion of Officers by Department of Navy *(Letter)* 113366

**Adkins v. United States, Ct. Cl. No. 363-80C (1980)**
Bobby W. Adkins, et al. v. United States *(Letter)* 113220

**Alyeska Pipeline Service Co. v. Wilderness Society, 421 U.S. 240 (1975)**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**American Federation of Government Employees Local 1858 (AFL-CIO) v. Alexander, Civ. Act. No. 78-W-5023-NE (D. Ala. 1978)**
Recoupment of Union Dues *(Decision)* 113253

**Atkins v. United States, 556 F.2d 1028 (Ct. Cl. 1977)**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**B-103315 (1979)**
Prohibition Against Use of Travel Agents *(Letter)* 113184

**B-114835 (1969)**
Protest Against Contract Award *(Decision)* 113380

**B-133170 (1976)**
Protest of Specification *(Decision)* 113227

**B-147497 (1964)**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226

**B-150847 (1975)**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**B-151276 (1963)**
Request for Reconsideration *(Decision)* 113200

**B-161012 (1967)**
Request for Reconsideration *(Decision)* 113200

**B-163375 (1971)**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**B-175732 (1976)**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**B-176425 (1972)**
Request for Reconsideration *(Decision)* 113200

**B-180010 (1976)**
Reimbursement for Towing Expenses *(Decision)* 113231

**B-180010.11 (1977)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**B-180095 (1977)**
Recoupment of Union Dues *(Decision)* 113253

**B-182098 (1975)**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**B-182586 (1974)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**B-182728 (1975)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**B-182853 (1976)**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**B-183047 (1975)**
Claim for Service Charges *(Letter)* 113252

**B-183105 (1975)**
Protest of Elimination From Competitive Range *(Decision)* 113249

**B-183355 (1975)**
Protests Against Termination Negotiations *(Decision)* 113203

**B-183559 (1975)**
Request for Relief From Liability *(Letter)* 113181

**B-183866 (1976)**
Protest Concerning IFB Cancellation *(Decision)* 113325

**B-184194 (1976)**
Protest Against RFP Cancellation *(Decision)* 113347

**B-184422 (1976)**
Request for Reconsideration *(Decision)* 113200

**B-184489 (1976)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**B-185582 (1977)**
Protest of Sole-Source Contract Award *(Decision)* 113259

**B-185820 (1976)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**B-186078 (1976)**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**B-186125 (1976)**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**B-186740 (1977)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**B-186751 (1976)**
Protest of Nonresponsibility Determination *(Decision)* 113291

**B-186820 (1976)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**B-186842 (1976)**
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254

**B-187070 (1977)**
Protest of Army Contract Award *(Decision)* 113369

**B-187158 (1977)**
Protest Against RFP Cancellation *(Decision)* 113347

**B-187160 (1977)**
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204

**B-187344 (1977)**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**B-187369 (1977)**
Request for an Advance Decision *(Decision)* 113213

**B-187563 (1977)**
Protest Against RFP Cancellation *(Decision)* 113347

**B-187887 (1977)**
Protest of Elimination From Competitive Range *(Decision)* 113249

**B-188319 (1977)**
Protest of Nonresponsibility Determination *(Decision)* 113291

**B-188331 (1977)**
Request for Reconsideration *(Decision)* 113200

**B-188342 (1977)**
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281

**B-188450 (1977)**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174

**B-188472 (1977)**
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204

**B-188595 (1977)**
Request for Waiver of Indebtedness *(Decision)* 113309

**B-188733 (1980)**
Request for Relief From Liability *(Letter)* 113181

**B-188773 (1979)**
Request for Relief From Liability *(Letter)* 113181

**B-188856 (1977)**
Protest of Nonresponsibility Determination *(Decision)* 113291

**B-188931 (1977)**
Protest of Nonresponsibility Determination *(Decision)* 113291

**B-188961 (1978)**
Protest of Specification *(Decision)* 113227

**B-189029 (1977)**
Protest Concerning Military Retired Pay *(Decision)* 113199

**B-189172 (1977)**
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204

**B-189214 (1979)**
Protest of Specification *(Decision)* 113227

**B-189462 (1979)**
Request for Reconsideration *(Decision)* 113251

**B-189471 (1978)**
Protest Against Contract Award *(Decision)* 113196

**B-189516 (1977)**
Protest Against Contracting Officer's Decision *(Decision)* 113208

**B-189571 (1978)**
Protest Against Contract Award *(Decision)* 113197

**B-189725 (1978)**
Protest of Elimination From Competitive Range *(Decision)* 113249

**B-189898 (1977)**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**B-189932 (1977)**
Protest of Nonresponsibility Determination *(Decision)* 113291

**B-190071 (1978)**
Reimbursement for Towing Expenses *(Decision)* 113231

**B-190074 (1978)**
Protest of Default Termination of Contract *(Decision)* 113290

**B-190143 (1978)**
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204

**B-190173 (1978)**
Protest of Nonresponsibility Determination *(Decision)* 113291

**B-190411 (1977)**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174

**B-190467 (1978)**
Protest Against Contract Award *(Decision)* 113209

**B-190752 (1978)**
Protest Against Contract Award *(Decision)* 113197

**B-190760 (1978)**
Protest of Elimination From Competitive Range *(Decision)* 113249

**B-190837 (1978)**
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**B-190883 (1979)**
Request for Reconsideration *(Decision)* 113382

**B-191013 (1980)**
Protest of Marine Corps RFP *(Decision)* 113225

**B-191112 (1978)**
Protest Against Proposed Contract Award *(Decision)* 113323

**B-191180 (1978)**
Reimbursement of Expenses *(Decision)* 113324

**B-191195 (1978)**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**B-191289 (1978)**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**B-191512 (1978)**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**B-192180 (1978)**
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279

**B-192246 (1979)**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**B-192307 (1978)**
Contract Award Protest *(Decision)* 113207

**B-192308 (1978)**
Protest of Purchase Order Award *(Decision)* 113274

**B-192476 (1978)**
Protest Challenging Future Solicitation Fairness *(Decision)* 113198

**B-192512 (1978)**
Protest of Contract Award by Awardee *(Decision)* 113295

**B-192534 (1979)**
Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications *(Decision)* 113361

**B-192578 (1979)**
Protest Concerning IFB Cancellation *(Decision)* 113325

**B-192691 (1979)**
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**B-192856 (1979)**
Protest of GSA Settlement Action *(Decision)* 113296

**B-192872 (1979)**
Protest of GSA Settlement Action *(Decision)* 113296

**B-192906.2 (1979)**
Protest of SBA Refusal To Issue COC *(Decision)* 113214

**B-192985 (1979)**
Protest of Default Termination of Contract *(Decision)* 113290

**B-193050 (1979)**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250

**B-193089 (1979)**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**B-193118 (1977)**
Protest of Specification *(Decision)* 113227

**B-193139 (1978)**
Protest of Army Contract Award *(Decision)* 113176

**B-193144 (1980)**
EEOC's Proposed Regulations *(Letter)* 113391

**B-193146 (1979)**
Protest Against Contract Award *(Decision)* 113196

**B-193159 (1978)**
Protest of Contract Termination *(Decision)* 113230

**B-193340 (1978)**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**B-193405 (1979)**
Contract Award Protest *(Decision)* 113207

**B-193450 (1979)**
Request for Waiver of Indebtedness *(Decision)* 113309

**B-193469 (1979)**
Protest Against Contract Award *(Decision)* 113196

**B-193595 (1979)**
Request for Proposal Preparation Cost *(Decision)* 113379

**B-193611 (1979)**
Protest Against Contract Award *(Decision)* 113197

**B-193614 (1979)**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335

**B-193664 (1979)**
Protest of SBA Refusal To Issue COC *(Decision)* 113214

**B-193672 (1979)**
Protest of HHS Contract Award *(Decision)* 113287

**B-193731 (1979)**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174

**B-193870 (1979)**
Protest of Late Proposal Rejection *(Decision)* 113351

**B-193953 (1979)**
Protest Against Bid Rejection *(Decision)* 113205

**B-194054 (1979)**
Protest Against Rejection of Bid *(Decision)* 113362

**B-194063 (1979)**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**B-194072 (1979)**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**B-194157 (1980)**
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113
Protest of Army Contract Award *(Decision)* 113369

**B-194157.2 (1980)**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**B-194275 (1979)**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**B-194347 (1979)**
Protest of Late Proposal Rejection *(Decision)* 113351

**B-194398.1 (1979)**
Protest of Elimination From Competitive Range *(Decision)* 113249

**B-194461 (1979)**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**B-194477 (1980)**
Protest of Purchase Order Award *(Decision)* 113274

**B-194505 (1979)**
Protest Concerning IFB Cancellation *(Decision)* 113325

**B-194519 (1980)**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**B-194554 (1979)**
Protest of Contract Award by Awardee *(Decision)* 113295

**B-194662 (1979)**
Protest Against Contract Award *(Decision)* 113209

**B-194692 (1979)**
Recoupment of Union Dues *(Decision)* 113253

**B-194698 (1979)**
Protest Against Bid Rejection *(Decision)* 113205

**B-194714.2 (1979)**
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250

**B-194739 (1980)**
SBA Leveraging Policy *(Letter)* 113364

**B-194932 (1979)**
Protest of Nonresponsibility Determination *(Decision)* 113291

**B-195346 (1979)**
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335

**B-195388 (1979)**
Protest of Late Proposal Rejection *(Decision)* 113351

**B-195503 (1979)**
Protests Against Termination Negotiations *(Decision)* 113203

**B-195561 (1980)**
Protest of Elimination From Competitive Range *(Decision)* 113249

**B-195624 (1980)**
Protest of Army Contract Award *(Decision)* 113258

**B-195673 (1979)**
Protest Against Contract Award *(Decision)* 113197
Protest of Marine Corps RFP *(Decision)* 113225

**B-195716 (1979)**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**B-195940 (1979)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**B-195956 (1980)**
Protest of Army Contract Award *(Decision)* 113369

**B-196010 (1980)**
Request for Reconsideration *(Decision)* 113251

**B-196105 (1980)**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**B-196276 (1980)**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**B-196279 (1980)**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**B-196359 (1980)**
Protest of Marine Corps RFP *(Decision)* 113225

**B-196394 (1980)**
Request for Reconsideration *(Decision)* 113368

**B-196402 (1980)**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**B-196499 (1980)**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**B-196550 (1980)**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**B-196552 (1980)**
Protest of Army Contract Award *(Decision)* 113258

**B-196569 (1980)**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**B-196705 (1980)**
Protest of HHS Contract Award *(Decision)* 113287

**B-196711 (1979)**
Claim of Mistake in Bid *(Decision)* 113370

**B-196726 (1980)**
Claim of Mistake in Bid *(Decision)* 113370

**B-196760 (1980)**
Protest Challenging Future Solicitation Fairness *(Decision)* 113198

**B-196780 (1980)**
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**B-196829 (1980)**
Request for Reconsideration *(Decision)* 113349

**B-196832 (1980)**
Request for Reconsideration *(Decision)* 113251

**B-196912 (1980)**
Request for Reconsideration *(Decision)* 113280

**B-196914 (1980)**
Protest of Bid Rejection as Non-responsive *(Decision)* 113356

**B-196959 (1980)**
Protest Against Contract Award *(Decision)* 113197

**B-196986.2 (1980)**
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355

**B-197035 (1980)**
Protest Involving Issues in Litigation *(Decision)* 113352

**B-197076 (1980)**
Protest Concerning IFB Cancellation *(Decision)* 113325

**B-197123 (1980)**
Protest of Elimination From Competitive Range *(Decision)* 113249

**B-197244 (1980)**
Protest Against Use of Negotiation Procedures *(Decision)* 113229
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343

**B-197414 (1980)**
Protest of Bid Rejection as Non-responsive *(Decision)* 113356

**B-197448 (1980)**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**B-197457 (1980)**
Protest Against Bid Rejection *(Decision)* 113205

**B-197610 (1980)**
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293

**B-197612 (1980)**
Protest of Army Contract Award *(Decision)* 113369

**B-197697 (1980)**
Protest of Army Contract Award *(Decision)* 113258

**B-197946 (1980)**
Protest of Marine Corps RFP *(Decision)* 113225

**B-198301 (1980)**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**B-198418 (1980)**
Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications *(Decision)* 113361

**B-198434 (1980)**
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350

**B-199022 (1980)**
Protest Involving Federal Funds *(Decision)* 113322

**B-199392 (1980)**
Request for Reconsideration *(Decision)* 113212

**B-199670 (1980)**
Protest Alleging Solicitation Improprieties *(Decision)* 113348

**Bannercroft Clothing Co. v. Renegotiation Board, 466 F.2d 345 (D.C. Cir. 1972)**
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254

**20 BIA Manual 2, Release 5**
Protest Against Contract Award *(Decision)* 113197

**BIA Procurement Reg. §14H-3.215-70**
Protest Against Contract Award *(Decision)* 113197

**Boege v. United States, 206 Ct. Cl. 560 (1975)**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**Bornhoft v. United States, 137 Ct. Cl. 134 (1956)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**Buch Express, Inc. v. United States, 132 F. Supp. 473 (Ct. Cl. 1955)**
Protest of GSA Settlement Action *(Decision)* 113296

**Burroughs Corporation v. United States, Ct. Cl. No. 251-78 (1980)**
Request for Proposal Preparation Cost *(Decision)* 113379

**California-Pacific Utilities Co. v. United States, 114 Ct. Cl. 703 (1971)**
Propriety of Agreement *(Decision)* 113210

**Clark v. United States, 461 F.2d 781 (Ct. Cl. 1972)**
Nancy Lee Presson v. United States *(Letter)* 113219

**Coleman v. United States, 100 Ct. Cl. 41 (1943)**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**Colonial Metals Co. v. United States, 494 F.2d 1355 (Ct. Cl. 1974)**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**19 Comp. Dec. 350**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**123 Cong. Rec. S15591**
EEOC's Proposed Regulations *(Letter)* 113391

**D.A.R. 1-705.4**
Protest of Nonresponsibility Determination *(Decision)* 113291

**D.A.R. 1-705.4(c)**
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355

**D.A.R. 1-706.5(b)**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**D.A.R. 2-404.1**
Protest Against RFP Cancellation *(Decision)* 113347

**D.A.R. 2-503.1(h)**
Protest Against RFP Cancellation *(Decision)* 113347

**D.A.R. 3-210**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**D.A.R. 3-508.2(a)**
Protest of Army Contract Award *(Decision)* 113258

**D.A.R. 18-101.1**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**D.C. Code Ann. §1-147(c)(1)**
Protest Against Contract Award *(Decision)* 113196

**DOD Directive 4165.60**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**DOD Disposal Manual 4160.21-M**
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

**Doyle v. United States, 599 F.2d 984 (Ct. Cl. 1979)**
Promotion of Officers by Department of Navy *(Letter)* 113366

**Emiliano v. United States, Ct. Cl. No. 409-80C (1980)**
Elias Emiliano v. United States *(Letter)* 113217

**F.P.M.R. 101-35**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

**F.T.R. para. 1-1.3**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**F.T.R. para. 1-7.3a**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**F.T.R. para. 1-7.3c**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**F.T.R. para. 1-7.6d**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**F.T.R. para. 1-8.1b(1)**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**F.T.R. para. 1-8.2b**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**F.T.R. para. 1-8.3b**
Reclaim for Actual Subsistence Expenses *(Decision)* 113255

**F.T.R. para. 1-8.5**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**F.T.R. para. 1-11.3c(16)**
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**F.T.R. para. 2-6.1e**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**F.T.R. para. 2-6.2d**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**FAA Order 4665.3A**
Reimbursement for Towing Expenses *(Decision)* 113231

**6 FAM 165.9**
Reimbursement of Expenses *(Decision)* 113324

**6 FAM 165.9-1**
Reimbursement of Expenses *(Decision)* 113324

**Fedders-Quigan Corp. v. Long Transportation Co., 64 M.C.C. 581 (1955)**
Protest of GSA Settlement Action *(Decision)* 113296

**Federal Management Circular 73-5**
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**Federal Motor Vehicle Safety Standard 110-208**
Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266

**Finn v. United States, 548 F.2d 340 (Ct. Cl. 1977)**
Nancy Lee Presson v. United States *(Letter)* 113219

**Ginn v. State Farm Mutual Auto Insurance Co., 417 F.2d 119 (5th Cir. 1969)**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226

**H. Rept. 96-339**
Prohibition Against Use of Travel Agents *(Letter)* 113184

**H.R. 4389 (96th Cong.)**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**H.R. 4473 (96th Cong.)**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**H.R. 7638 (96th Cong.)**
Views on H.R. 7638 *(Letter)* 113311

**H.R. 7689 (96th Cong.)**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**H.R. 7893 (96th Cong.)**
GAO Views on H.R. 7893 *(Testimony)* 113277

**Harris v. U.S. Department of the Treasury, 489 F. Supp. 476 (N.D. Ill. 1980)**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**Hearns v. United States, Ct. Cl. No. 364-80C (1980)**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**Idoine v. United States, Ct. Cl. No. 403-80C (1980)**
Jane Idoine v. United States *(Letter)* 113218

**1 J.T.R. ch. 4, part G**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**1 J.T.R. para. M3000**
Claim for Additional Per Diem *(Decision)* 113177

**1 J.T.R. para. M4159-5**
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**1 J.T.R. para. M4204-3(g)**
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**1 J.T.R. para. M4300-1**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**1 J.T.R. para. M4300-3**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**1 J.T.R. para. M4301-2**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**1 J.T.R. para. M4304**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**1 J.T.R. para. M4305**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**2 J.T.R. para. C4552-2c**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**2 J.T.R. para. C4552-3b(6)**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**2 J.T.R. para. C4552-3d**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**Kalver Corp., Inc. v. United States, 543 F.2d 1298 (Ct. Cl. 1976)**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**Keco Industries, Inc. v. United States, 192 Ct. Cl. 773 (1970)**
Request for Proposal Preparation Cost *(Decision)* 113379

**Keco Industries, Inc. v. United States, 203 Ct. Cl. 566 (1974)**
Request for Proposal Preparation Cost *(Decision)* 113379

**Keco Industries, Inc. v. United States, 492 F.2d 1200 (Ct. Cl. 1974)**
Protest Involving Issues in Litigation *(Decision)* 113352

**King v. Smith, 392 U.S. 309 (1968)**
Definition of "Minorities" *(Letter)* 113228

**Lodge 2424, International Association of Machinists and Aerospace Workers, AFL-CIO v. United States, 215 Ct. Cl. 125 (1977)**
Recoupment of Union Dues *(Decision)* 113253

**Moyssey v. Andrus, 21 FEP 836 (D.D.C. 1979)**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**Nakshian v. Claytor, 22 FEP 41 (D.C. Cir. 1980)**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**Navajo Freight Lines v. United States, 176 Ct. Cl. 1265 (1966)**
Protest of GSA Settlement Action *(Decision)* 113296

**Nixon v. Administrator of General Services, 433 U.S. 425 (1977)**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**Nolan Bros., Inc. v. United States, 405 F.2d 1250 (Ct. Cl. 1969)**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**OMB Circular A-30**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**OMB Circular A-71**
VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238
A Structure for Managing ADP Resources *(Other)* 113270

**OMB Circular A-102**
Definition of "Minorities" *(Letter)* 113228
Who Audits the Auditors? *(Other)* 113272

**OMB Circular A-117**
Trends in Evaluation *(Other)* 113261

**410 Op. Att'y Gen. 10**
Promotion of Officers by Department of Navy *(Letter)* 113366

**Paul v. United States, 371 U.S. 245 (1963)**
Propriety of Agreement *(Decision)* 113210

**Pillsbury Flour Mills Co. v. Great Northern Railway, 25 F.2d 66 (8th Cir. 1928)**
Review of Audit Action *(Decision)* 113211

**Public Utilities Commission of California v. United States, 355 U.S. 534 (1958)**
Propriety of Agreement *(Decision)* 113210

**Reorg. Plan No. 2 of 1978**
Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**Rutherford v. United States, Ct. Cl. No. 500-76 (1978)**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**S. Rept. 95-820**
EEOC's Proposed Regulations *(Letter)* 113391

**S. 262 (96th Cong.)**
Proposed Title V to S. 262 *(Report)* 113385

**S. 2080 (96th Cong.)**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**S. 2147 (96th Cong.)**
Proposed Title V to S. 262 *(Report)* 113385

**S. 3025 (96th Cong.)**
Views of GAO on Provisions of S. 3025 *(Testimony)* 113276

**Shepherd v. Thompson, 122 U.S. 231 (1887)**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226

**Systems Consultants, Inc. v. United States, Civ. Act. No. 80-869 (D.D.C. 1980)**
Protest Involving Issues in Litigation *(Decision)* 113352

**Tellschak Trucking, Inc. v. White Brothers Trucking Co., 77 M.C.C. 672 (1958)**
Review of Audit Action *(Decision)* 113211

**U.S. Const. amend. I**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278

**U.S. Const. amend. V**
The Administrative Process, An Overview *(Other)* 113399

**U.S. Const. art. I, § 1**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**U.S. Const. art. I, § 6, cl. 2**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**U.S. Const. art. I, § 7**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**U.S. Const. art. II, § 1, cl. 1, § 3**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**U.S. Const. art. II, § 2**
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278

**U.S. Const. art. III**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**United States v. An Article of Food and Drug Labeled Naremco Medi-Matic Free Choice Poultry Formula, Civ. Act. No. 986 (W.D. Ark. 1966)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**United States v. Articles of Food and Drug (Coli-Trol 80 Medicated), 372 F. Supp. 915 (N.D. Ga. 1974)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**United States v. Dan-Mar Enterprises, Inc., Civ. Act. No. C78-06G (N.D. Ga. 1978)**
FDA's Re[illegible]ion of Gentian Violet Appea[illegible]sonable *(Report)* 113187

**United States v. General Petroleum Corp., 73 F. Supp. 225 (S.D. Cal. 1956)**
Settlement of Alleged Breach of Contract *(Decision)* 113310

**United States v. Georgia Public Service Commission, 371 U.S. 285 (1963)**
Propriety of Agreement *(Decision)* 113210

**United States v. Gulf Refining Co., 286 U.S. 542 (1925)**
Protest of GSA Settlement Action *(Decision)* 113296

**United States v. Naremco, 563 F.2d 1138 (8th Cir. 1977)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**United States v. 41 Cases, More or Less of an Article of Food and Drug (Myconex), Civ. Act. No. 4617 (E.D. Tex. 1966)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

## U.S. Code

**2 U.S.C. 359(1)**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**5 U.S.C. 552**
Protest of Navy Failure To Provide Requested Information *(Decision)* 113254
Request for Reconsideration *(Decision)* 113280

**5 U.S.C. 1082(7)**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**5 U.S.C. 2105**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**5 U.S.C. 5102(c)(7)**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**5 U.S.C. 5525**
Recoupment of Union Dues *(Decision)* 113253

**5 U.S.C. 5527**
Recoupment of Union Dues *(Decision)* 113253

**5 U.S.C. 5545**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**5 U.S.C. 5545(c)(2)**
Overtime Compensation for Surveillance Activity *(Decision)* 113206

**5 U.S.C. 5702**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**5 U.S.C. 5707**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**5 U.S.C. 5721 et seq.**
Reimbursement of Expenses *(Decision)* 113324

**5 U.S.C. 5724(a)(3)**
Views on H.R. 7638 *(Letter)* 113311

**5 U.S.C. 5724a(a)(4)**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**5 U.S.C. 5901**
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

**5 U.S.C. 6301 et seq.**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**5 U.S.C. 6311**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**5 U.S.C. 8301**
Protest Concerning Military Retired Pay *(Decision)* 113199

**5 U.S.C. 8331(1)**
Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

**10 U.S.C. 101(22)**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**10 U.S.C. 101(31)**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**10 U.S.C. 543**
Promotion of Officers by Department of Navy *(Letter)* 113366

**10 U.S.C. 815**
Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

**10 U.S.C. 1201**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**10 U.S.C. 1203**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**10 U.S.C. 1215**
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183

**10 U.S.C. 1401a**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 1431**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**10 U.S.C. 1447**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**10 U.S.C. 1450(b)**
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286

**10 U.S.C. 1451**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**10 U.S.C. 1552**
Promotion of Officers by Department of Navy *(Letter)* 113366

**10 U.S.C. 2301 et seq.**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**10 U.S.C. 2304(a)(1)**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**10 U.S.C. 2304(a)(10)**
Protest Against Use of Negotiation Procedures *(Decision)* 113229

**10 U.S.C. 2774**
Request for Waiver of Indebtedness *(Decision)* 113309

**10 U.S.C. 3281**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 3297**
Promotion of Officers by Department of Navy *(Letter)* 113366

**10 U.S.C. 3911**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 3918**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 3961**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 3962**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 3963**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 6323**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 8281**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 8911**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 8961**
Protest Concerning Military Retired Pay *(Decision)* 113199

**10 U.S.C. 8962**
Protest Concerning Military Retired Pay *(Decision)* 113199

**14 U.S.C. 291**
Protest Concerning Military Retired Pay *(Decision)* 113199

**15 U.S.C. 631 et seq.**
Protest of SBA Refusal To Issue COC *(Decision)* 113214

**15 U.S.C. 636(l) et seq.**
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365

**15 U.S.C. 637(a)**
Definition of "Minorities" *(Letter)* 113228

**15 U.S.C. 637(b)**
Protest of Army Contract Award *(Decision)* 113369

**15 U.S.C. 637(b)(7)**
Protest of SBA Refusal To Issue COC *(Decision)* 113214
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356

**15 U.S.C. 1381 et seq.**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239

**15 U.S.C. 1601 et seq.**
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363

**15 U.S.C. 1901**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239

**16 U.S.C. 202(c)**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**16 U.S.C. 210**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**16 U.S.C. 837g**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**16 U.S.C. 838b(d)**
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**20 U.S.C. 1061**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**20 U.S.C. 1401 et seq.**
The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

**21 U.S.C. 201(f)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 U.S.C. 201(w)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 U.S.C. 304**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 U.S.C. 321(p)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 U.S.C. 321(s)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 U.S.C. 334(b)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 U.S.C. 348**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**21 U.S.C. 402(a)(2)(c)**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**22 U.S.C. 160**
Reimbursement of Expenses *(Decision)* 113324

**22 U.S.C. 1136**
Reimbursement of Expenses *(Decision)* 113324

**23 U.S.C. 315**
Definition of "Minorities" *(Letter)* 113228

**23 U.S.C. 401 et seq.**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239

**23 U.S.C. 402**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**23 U.S.C. 403**
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

**25 U.S.C. 47**
Protest Against Contract Award *(Decision)* 113197
Protest Against Contract Award *(Decision)* 113380

**25 U.S.C. 450e(b)(2)**
Protest Against Contract Award *(Decision)* 113380

**26 U.S.C. 3301 et seq.**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**28 U.S.C. 1491**
Nancy Lee Presson v. United States *(Letter)* 113219

**29 U.S.C. 49 et seq.**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**29 U.S.C. 201**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**29 U.S.C. 211(b) et seq.**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**29 U.S.C. 621 et seq.**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**29 U.S.C. 626(b)**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**29 U.S.C. 633a(b)**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**29 U.S.C. 633a(c)**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**29 U.S.C. 701 et seq.**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**29 U.S.C. 794a**
EEOC's Proposed Regulations *(Letter)* 113391

**31 U.S.C. 41**
Request for Information on the General Accounting Office *(Letter)* 113257

**31 U.S.C. 43**
Request for Information on the General Accounting Office *(Letter)* 113257

**31 U.S.C. 71a**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**31 U.S.C. 82a-1**
Request for Relief From Liability *(Letter)* 113181

**31 U.S.C. 82d**
Settlement of Alleged Breach of Contract *(Decision)* 113310
Reimbursement of Expenses *(Decision)* 113324

**31 U.S.C. 236**
Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226
Views on H.R. 7638 *(Letter)* 113311

**31 U.S.C. 237**
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334

**31 U.S.C. 665(a)**
Propriety of Agreement *(Decision)* 113210

**31 U.S.C. 679**
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289

**31 U.S.C. 680a**
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**33 U.S.C. 853-1**
Protest Concerning Military Retired Pay *(Decision)* 113199

**37 U.S.C. 403(b)**
Request for Waiver of Indebtedness *(Decision)* 113309

**37 U.S.C. 404**
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312

**37 U.S.C. 405**
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232

**38 U.S.C. 5004**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**40 U.S.C. 163b**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**40 U.S.C. 164a**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**40 U.S.C. 166b**
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288

**40 U.S.C. 471 et seq.**
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**40 U.S.C. 541 et seq.**
Protest Against Contract Award *(Decision)* 113197
Protests Against Termination Negotiations *(Decision)* 113203
Protest of Procedures Used in Army RFQ *(Decision)* 113313

**40 U.S.C. 606**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**40 U.S.C. 759**
Request for Reconsideration *(Decision)* 113382

**40 U.S.C. 759(a)**
Request for Reconsideration *(Decision)* 113382

**41 U.S.C. 11**
Propriety of Agreement *(Decision)* 113210

**41 U.S.C. 35 et seq.**
Protest of Army Contract Award *(Decision)* 113369
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**41 U.S.C. 351 et seq.**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**42 U.S.C. 212**
Protest Concerning Military Retired Pay *(Decision)* 113199

**42 U.S.C. 213a**
Protest Concerning Military Retired Pay *(Decision)* 113199

**42 U.S.C. 402(e)(8)(A)**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**42 U.S.C. 405(h)**
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**42 U.S.C. 501 et seq.**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**42 U.S.C. 1395**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**42 U.S.C. 1396**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**42 U.S.C. 2000b**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**42 U.S.C. 2000c-16 et seq.**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**42 U.S.C. 2000d et seq.**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**42 U.S.C. 2000e-16**
EEOC's Proposed Regulations *(Letter)* 113391

**42 U.S.C. 2000h**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**42 U.S.C. 2016**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**42 U.S.C. 5877(c)**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**42 U.S.C. 6892**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**42 U.S.C. 7154**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**44 U.S.C. 595**
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**44 U.S.C. 1510**
Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182

**46 U.S.C. 1241(a)**
Reimbursement of Expenses *(Decision)* 113324

**49 U.S.C. 66(a)(b)**
Protest of GSA Settlement Action *(Decision)* 113296

**56 U.S.C. 28**
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383

**61 U.S.C. 10**
Nancy Lee Presson v. United States *(Letter)* 113219

## U.S. Statutes-at-Large

**60 Stat. 26**
Protest Concerning Military Retired Pay *(Decision)* 113199

**72 Stat. 339**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**73 Stat. 73**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**81 Stat. 644**
Congressional Oversight and the Legislative Veto *(Other)* 113400

**88 Stat. 55**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**88 Stat. 1251**
Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**89 Stat. 538**
Protest Concerning Military Retired Pay *(Decision)* 113199

**91 Stat. 908**
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315

**91 Stat. 973**
Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

**91 Stat. 1509**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**91 Stat. 1544**
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216

**92 Stat. 189**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**92 Stat. 1595**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

**92 Stat. 1761**
Request for Reconsideration *(Decision)* 113212

**92 Stat. 2955**
Administrative Payment of Attorneys Fees *(Decision)* 113314
EEOC's Proposed Regulations *(Letter)* 113391

**92 Stat. 2982**
EEOC's Proposed Regulations *(Letter)* 113391

**92 Stat. 3781**
Administrative Payment of Attorneys Fees *(Decision)* 113314

**93 Stat. 468**
Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

**93 Stat. 923**
Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283
Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

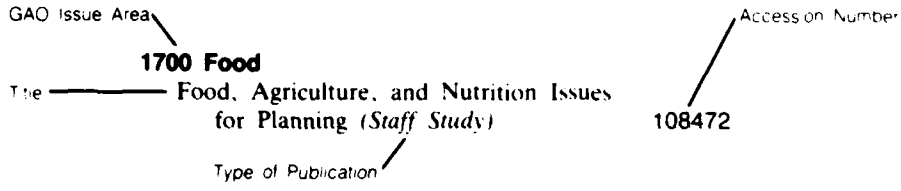
**93 Stat. 1040**
Reimbursement of Expenses *(Decision)* 113324

**93 Stat. 1041**
Reimbursement of Expenses *(Decision)* 113324

# GAO ISSUE AREA INDEX

Entries are arranged by official GAO Issue Areas and lines-of-effort within these Issue Areas

SAMPLE ENTRY:




**100 Automatic Data Processing**

Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171

**106 Use of Computer Systems for Agency Mission Requirements and Support Functions**

Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376

**111 Acquisition of ADP Resources Under the Brooks Act**

VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**112 Changing ADPE Acquisition Regulations To Meet the Objectives of the Brooks Act**

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**300 Personnel Management and Compensation**

**307 Retirement Policies and Practices**

Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

**308 Administration of Retirement Programs**

Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236

**312 Morale, Welfare, and Recreation Activities**

Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**316 Systems for Insuring Ethical Conduct**

Department of Energy Procurement Activities *(Report)* 113234

**317 Military Justice**

Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

**319 Civil Service Reorganization and Reform Implementation**

OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237

Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**320 Defense Manpower Management**

Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**500 Law Enforcement and Crime Prevention**

Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

**551 Non-Line-of-Effort Assignments**

The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**600 International Affairs**

**606 Monetary Issues, International Investment, and Other Capital Flows**

Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**607 International Security Through Controls**

U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

**614 Management of Foreign Affairs**

Sole-Source Passport Office Lamination Contract *(Report)* 113189

**616 Risks of Weapons Proliferation Associated With Peaceful International Nuclear Cooperation**

U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**700 Facilities and Material Management**

**711 The Federal Buildings Fund**

Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**715 Effectiveness of Policies, Procedures and Practices for Identifying/Disposing of Surplus Property**

Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

**752 The Government's Policy With Respect to the Locations of Space Acquisition**

Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

**800 Military Preparedness Plans**

**808 Readiness of the Military Forces**

Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**809 Movements of Personnel, Equipment, and Supplies**

Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191

**900 Consumer and Worker Protection**
Transportation Issues in the 1980's *(Staff Study)* 113247

**907 Evaluation of Drug Safety and Efficacy Prior to Marketing**
FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**916 Labor Standards**
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**1000 Non-Discrimination and Equal Opportunity Programs**
**1016 Eliminating Employment Discrimination**
Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**1200 Health Programs**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**1208 Health Care Costs**
Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**1213 Quality Care and Its Assurance**
Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

**1251 Non-Line-of-Effort Assignments**
The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**1265 More Efficient and Effective Administration of Programs**
Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186

**1300 Income Security and Social Services**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**1307 Eligibility Determinations**
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306
Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**1309 Payment Processes**
VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

**1500 Tax Policy**
**1504 Economic Impact of Taxation on Major Industries or Sectors of the U.S. Economy**
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**1600 Energy**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
Transportation Issues in the 1980's *(Staff Study)* 113247

**1607 Effect of Federal Efforts on Energy Conservation Action**
Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**1608 Making Nuclear Fission a Substantial Energy Source**
The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341
U.S. Nuclear Non-Proliferation Policy Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**1610 Effect of Federal Financial Incentives, Tax Policies, and Regulatory Policies on Energy Supply**
Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224
The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

**1612 Prospects for Transition to Essentially Inexhaustible Energy Resources**
U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

**1613 Coordination of International Component of U.S. Energy Policy With Domestic Energy Requirements**
Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

**1614 Federal Government Trusteeship Over Energy Sources on Federal Lands**
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172
Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**1621 Nuclear Power Development Throughout the World Without Undue Risk of Proliferation**
Three Mile Island The Most Studied Nuclear Accident in History *(Report)* 113337

**1651 Non-Line-of-Effort Assignments**
Department of Energy Procurement Activities *(Report)* 113234
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305
Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306
Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

**1700 Food**
**1708 Federal Good Nutrition Standards**
Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

1738 Adaptability of the Food Production System To Maintain Productivity Under Changed Conditions
Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

1900 General Procurement
1917 Procurement Practices Under Federal Grants
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

1918 Improving Systems To Direct/Prevent Fraud and Corrupt Practices
Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

1921 Major Problems That Prevent Agencies From Obtaining Effective Competition
Department of Energy Procurement Activities *(Report)* 113234

1922 Prices Negotiated in the Absence of Competition
Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222

1923 Effectiveness of Central Supply Agencies in Providing Quality Products and Services
Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

1953 Increasing the Effectiveness of Socioeconomic Legislation Impacting on the Procurement Process
Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

2000 Science and Technology
2003 Federal Laboratories and Federally Supported Organizations Performing Research and Development
Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

2008 Support of Basic Research
Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

2011 Improving Decisionmaking for Science and Technology Resources
The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

2100 Domestic Housing and Community Development
Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

2156 Research and Development Efforts in Housing
More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248

2200 Environmental Protection Programs
Transportation Issues in the 1980's *(Staff Study)* 113247

2208 Environmental Protection Regulatory Strategies
Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

2300 Land Use Planning and Control
2305 Planning for Land Use
Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

2306 Management of Federal Lands
Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

2351 Non-Line-of-Effort Assignments
Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

2400 Transportation Systems and Policies
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239
Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240
Transportation Issues in the 1980's *(Staff Study)* 113247

2413 Air Transportation System
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

2500 Water and Water Related Programs
2504 Effective Water Conservation and Reuse Programs
Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

2510 Ground Water Supply Management and Conservation
Ground Water Overdrafting Must Be Controlled *(Report)* 113294

2700 Tax Administration
2708 Selecting and Auditing Tax Returns
The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246

2800 Accounting and Financial Reporting
2802 Operations, Financial Position, and Changes in Financial Position
Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980 *(Report)* 113394

2803 Systems To Insure That Amounts Owed the Federal Government Are Fully and Promptly Collected
Status of Special National Direct Student Loan Funds *(Report)* 113357

2805 Sound Cash Management
Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236
Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

2814 Accounting and Financial Regulations for Publicly Held Companies
Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

2900 National Productivity
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

3000 Procurement of Major Systems
Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

3001 Congressional Information on the Issues Concerning Systems for Which Funds Are Requested
Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters *(Report)* 113188

3004 Impact of OMB Circular A-109 and Other Management Strategies on Acquisition Programs
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**3006 Reducing Total Ownership Cost of Systems During the Acquisition Process**
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**3062 Adequacy of Cost Estimates To Support Acquisition Program Management**
Cost Estimates for U.S. and Canadian F A-18 Strike Fighters *(Report)* 113188

**3064 Testing and Evaluation of Acquisition Planning, Conducting, and Reporting**
Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

**3200 Federally Sponsored or Assisted Employment and Training Programs**
**3204 Internal Administrative Controls Over Selected Areas of CETA Programs**
The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**3255 Job Placement Assistance Offered by Employment Services**
Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

**3300 Education**
**3305 Quality of Life of Children and Their Families**
Status of Special National Direct Student Loan Funds *(Report)* 113357

**3351 Non-Line-of-Effort Assignments**
Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190

**3400 Program and Budget Information for Congressional Use**
Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

**3408 Consideration of and Visibility of Capital Acquisitions in the Federal Budgetary Process**
Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**3600 Logistics Management**
**3607 Improvements in Equipment Utilization**
DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

**3608 Equipment Maintenance and Procurement Achieving Optimum Efficiency and Effectiveness**
Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**4000 Economic Analysis of Alternative Program Approaches**
**4051 Other Non-Line-of-Effort Assignments**
An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

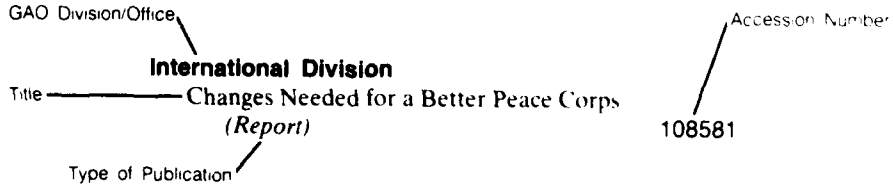
A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**4061 Economic Effects of Government Regulations on Major Sectors or Industries**
The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

# GAO DIVISION/OFFICE INDEX

Entries are arranged alphabetically by the GAO Division/Office responsible for the contents of the document

SAMPLE ENTRY:





**Community and Economic Development Division**

Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171

Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

Highway Safety Research and Development --Better Management Can Make It More Useful *(Report)* 113239

Highway Safety Research and Development --Better Management Can Make It More Useful *(Report)* 113240

Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

Transportation Issues in the 1980's *(Staff Study)* 113247

More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248

Reviewing an Automobile Safety Standard: A Unique Service to the Congress *(Other)* 113266

Alternative Mortgage Instruments--Their Importance to You *(Other)* 113273

Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

Ground Water Overdrafting Must Be Controlled *(Report)* 113294

The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

Parity and the Agricultural Sector *(Testimony)* 113346

Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**Energy and Minerals Division**

Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

Department of Energy Procurement Activities *(Report)* 113234

The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S. *(Report)* 113284

Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**Federal Personnel and Compensation Division**

Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237

Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

Flexible Management: A Must for Effective Armed Services Recruiting *(Report)* 113358

**Field Operations Division**

**Regional Office (Atlanta)**

Hispanic Americans--A Profile *(Other)* 113267

A Structure for Managing ADP Resources *(Other)* 113270

Playing on Someone Else's Team; or Working on a Senate Subcommittee *(Other)* 113271

**Regional Office (Chicago)**

Who Audits the Auditors? *(Other)* 113272

**Regional Office (Detroit)**

"Alice Through the Looking Glass," or Trying New Evaluation Techniques *(Other)* 113265

**Regional Office (New York)**

The New York Region: The Apple Still Shines *(Other)* 113262

**Regional Office (Seattle)**

The Road to a Billion Dollar Saving, A Team Effort *(Other)* 113269

**Financial and General Management Studies Division**

Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities *(Testimony)* 113233

Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236

VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

A History of the Claims Division *(Other)* 113263

Views of GAO on Provisions of S. 3025 *(Testimony)* 113276

Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**General Government Division**

The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246

Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

Compliance by Federal Agencies With the Requirements To File 1099 Information Returns *(Testimony)* 113332

Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376

Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980 *(Report)* 113394

**Human Resources Division**

Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190

VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

The Education for All Handicapped Children Act of 1975 *(Testimony)* 113316

Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

Controls Over Drugs in Veterans Administration Medical Centers *(Testimony)* 113333

Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

Status of Special National Direct Student Loan Funds *(Report)* 113357

Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software *(Testimony)* 113384

**International Division**

Sole-Source Passport Office Lamination Contract *(Report)* 113189

U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**Logistics and Communications Division**

Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191

DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

Consolidating Military Base Support Services Could Save Billions *(Report)* 113235

GAO Financial Savings: Defense Audits Lead the Way *(Other)* 113275

Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

Survey of the Readiness of Minuteman Missiles *(Report)* 113326

**Office of Information Systems and Services**

Guide to Information Sources in Audit References Services on U.S. Postal Service *(Other)* 113342

**Office of Librarian**

International Affairs: A Listing of Major Journals *(Other)* 113317

Selected Publications on Equal Opportunity *(Other)* 113318

Women in the Workplace: An Annotated Bibliography *(Other)* 113319

Selected Reference Works on Government Contracting: An Annotated Bibliography *(Other)* 113320

Internal Auditing in the Government: An Annotated Bibliography *(Other)* 113321

**Office of Personnel Development and Services**

Performance Appraisal System Manual: Behaviorally Anchored Rating Scales *(Other)* 113299

**Office of the Comptroller General**

The GAO Review *(Other)* 113260

Career Challenges in a Changing Civil Service *(Other)* 113264

GAO Views on H.R. 7893 *(Testimony)* 113277

International Activities of Banks *(Testimony)* 113401

**Career Level Council**

Career Level Council--Annual Report 1980 *(Other)* 113336

**Office of the General Counsel**

The OGC Adviser *(Other)* 113397

**General Government Matters**

Request for Relief From Liability *(Letter)* 113179

Request for Relief From Liability *(Letter)* 113181

Contract Award Protest *(Decision)* 113207

Propriety of Agreement *(Decision)* 113210

Request by German Government for Reimbursement of Fire Insurance Premiums *(Decision)* 113226

Foreign Assistance Loan Funds Appropriated by Continuing Resolution *(Decision)* 113283

Use of Appropriated Funds To Buy Robes for Administrative Law Judges *(Decision)* 113353

Don't Come to Work on October 1, or a Clearly Deficient Situation *(Other)* 113398

Congressional Oversight and the Legislative Veto *(Other)* 113400

**Personnel Law Matters I**

Entitlement to Reimbursement of Real Estate Expenses *(Decision)* 113173

Procedures for Decisions on Appropriated Fund Expenditures *(Other)* 113182

Recredit of Sick Leave Following Congressional Employment *(Decision)* 113201

Overtime Compensation for Surveillance Activity *(Decision)* 113206
Elias Emiliano v. United States *(Letter)* 113217
Jane Idoine v. United States *(Letter)* 113218
Reimbursement for Towing Expenses *(Decision)* 113231
Reclaim for Actual Subsistence Expenses *(Decision)* 113255
Salary and Responsibilities of Acting Assistant Architect of the Capitol *(Decision)* 113288
Request for Reimbursement of Loan Origination Fee *(Decision)* 113363
Claim for Long Distance Telephone Call and Postage Expenses *(Decision)* 113383
EEOC's Proposed Regulations *(Letter)* 113391

**Personnel Law Matters II**
Claim for Additional Per Diem *(Decision)* 113177
Claim for Additional Amounts of Military Pay and Allowances *(Letter)* 113180
Theophilus A. Hearns, An Incompetent Person v. United States *(Letter)* 113183
Protest Concerning Military Retired Pay *(Decision)* 113199
Provisions of the Social Security Amendments of 1977 *(Letter)* 113216
Nancy Lee Presson v. United States *(Letter)* 113219
Bobby W. Adkins, et al. v. United States *(Letter)* 113220
Request for Station Housing and Cost-of-Living Allowances *(Decision)* 113232
Recoupment of Union Dues *(Decision)* 113253
Entitlement to Reinstatement of Survivor Benefit Plan Annuity *(Decision)* 113286
Request for Reimbursement of Telephone Installation and Maintenance *(Decision)* 113289
Request for Waiver of Indebtedness *(Decision)* 113309
Views on H.R. 7638 *(Letter)* 113311
Request for Reimbursement of Cost of Transoceanic Transportation *(Decision)* 113312
Administrative Payment of Attorneys Fees *(Decision)* 113314
Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships *(Decision)* 113315
Promotion of Officers by Department of Navy *(Letter)* 113366

**Procurement Law Control Group**
Protest of Contract Termination *(Decision)* 113230
Protest of Agency's Cancellation of Solicitation *(Decision)* 113279
Protest of Proposal Rejection for Lateness *(Decision)* 113354

**Procurement Law I**
Reconsideration of Protest Against Army Solicitation *(Decision)* 113174
Protest Against Contract Award *(Decision)* 113197
Request for Reconsideration *(Decision)* 113200
Protest Against Bid Exclusion From the Competitive Range *(Decision)* 113204
Protest Against Contracting Officer's Decision *(Decision)* 113208
Protest Against Contract Award *(Decision)* 113209
Protest Alleging Improper RFP *(Decision)* 113215
Definition of "Minorities" *(Letter)* 113228
Protest of Elimination From Competitive Range *(Decision)* 113249
Protest of Bid Rejection as Nonresponsive *(Decision)* 113250
Claim for Service Charges *(Letter)* 113252
Request for Information on the General Accounting Office *(Letter)* 113257
Protest of Army Contract Award *(Decision)* 113258
Protest of Sole-Source Contract Award *(Decision)* 113259
Protest of Purchase Order Award *(Decision)* 113274
Protest of Solicitation Cancellation After Bid Opening *(Decision)* 113281
Protest of HHS Contract Award *(Decision)* 113287
Protest of Default Termination of Contract *(Decision)* 113290
Protest of Nonresponsibility Determination *(Decision)* 113291
Protest of Agency Failure To Extend Bid Acceptance Period *(Decision)* 113293
Protest of Contract Award by Awardee *(Decision)* 113295
Protest Against Proposed Contract Award *(Decision)* 113323
Protest Concerning IFB Cancellation *(Decision)* 113325
Entitlement to Per Diem for Travel of Less Than 24 Hours *(Decision)* 113334
Protest Alleging Solicitation Improprieties *(Decision)* 113348
Protest That Sole-Source Award of Contract Was Improper *(Decision)* 113350
Protest Involving Issues in Litigation *(Decision)* 113352
Protest Against Agency Determination of Nonresponsibility *(Decision)* 113355
Changes to Consolidated List of Current Debarments *(Other)* 113367
Request for Proposal Preparation Cost *(Decision)* 113379
Request for Reconsideration *(Decision)* 113382
Protest Against the Inclusion of Certain Contract Terms in IFB *(Decision)* 113390

**Procurement Law II**
Protest Based Upon Solicitation Improprieties *(Decision)* 113175
Protest Against Contract Award *(Decision)* 113196
Protest Challenging Future Solicitation Fairness *(Decision)* 113198
Protests Against Termination Negotiations *(Decision)* 113203
Request for Reconsideration *(Decision)* 113212
Request for an Advance Decision *(Decision)* 113213
Protest of Marine Corps RFP *(Decision)* 113225
Protest of Specification *(Decision)* 113227
Protest Against Use of Negotiation Procedures *(Decision)* 113229
Request for Reconsideration *(Decision)* 113251
Settlement of Alleged Breach of Contract *(Decision)* 113310
Protest of Procedures Used in Army RFQ *(Decision)* 113313
Protest Involving Federal Funds *(Decision)* 113322
Protest Alleging Agency Failed To Provide Adequate Statement of Needs *(Decision)* 113335
Protest Contending That RFP Should Not Have Been Negotiated *(Decision)* 113343
Protest Against RFP Cancellation *(Decision)* 113347
Request for Reconsideration *(Decision)* 113349
Protest of Late Proposal Rejection *(Decision)* 113351
Protest of Bid Rejection as Nonresponsive *(Decision)* 113356
Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications *(Decision)* 113361
Request for Reconsideration *(Decision)* 113368
Protest of Army Contract Award *(Decision)* 113369
Claim of Mistake in Bid *(Decision)* 113370
Protest Against Contract Award *(Decision)* 113380
Government's Action To Set Off *(Decision)* 113381

**Special Studies and Analysis**
The General Accounting Office of 1980: The End of a Long Legislative Road *(Other)* 113268
Human Rights Treaties: Why Don't We Sign? *(Other)* 113278
Protest Against Rejection of Bid *(Decision)* 113362
SBA Leveraging Policy *(Letter)* 113364
Protest Alleging Improper and Unfair Evaluation of Proposal *(Decision)* 113365
Appropriated Funds and Interest *(Letter)* 113389
The Administrative Process: An Overview *(Other)* 113399

**Transportation Law**

Protest of Army Contract Award *(Decision)* 113176

Protest of Bid Rejection for Failure To Acknowledge Amendment *(Decision)* 113178

Prohibition Against Use of Travel Agents *(Letter)* 113184

Protest Against Bid Rejection *(Decision)* 113205

Review of Audit Action *(Decision)* 113211

Protest of SBA Refusal To Issue COC *(Decision)* 113214

Protest of Navy Failure To Provide Requested Information *(Decision)* 113254

Request for Reconsideration *(Decision)* 113280

Protest of GSA Settlement Action *(Decision)* 113296

Reimbursement of Expenses *(Decision)* 113324

**Procurement and Systems Acquisition Division**

Cost Estimates for U.S. and Canadian F A-18 Strike Fighters *(Report)* 113188

Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems *(Report)* 113222

Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point *(Report)* 113360

Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**Program Analysis Division**

The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

Trends in Evaluation *(Other)* 113261

Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

A Review of U.S. Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

Proposed Title V to S. 262 *(Report)* 113385

Review of Report Concerning Investment Tax Credit *(Report)* 113386

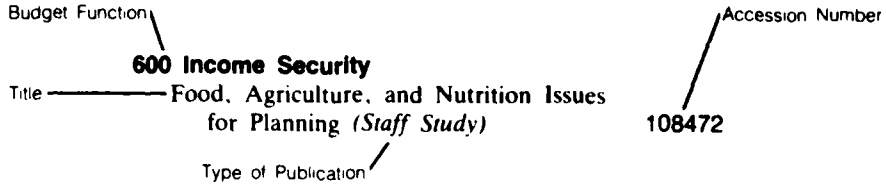
Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

# BUDGET FUNCTION INDEX

Entries are arranged by official OMB Budget Function codes (including those added by GAO)

SAMPLE ENTRY:





**050 National Defense**

**051 Department of Defense - Military (except procurement and contracts)**

Transportation Vehicles Available in Europe for Medical Evacuations *(Report)* 113191

DOD's Management of Automatic and General Purpose Electronic Test Equipment *(Report)* 113223

Survey of the Readiness of Minuteman Missiles *(Report)* 113326

Flexible Management: A Must for Effective Armed Services Recruiting (Report) 113358

**054 Defense-Related Activities**

Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed *(Report)* 113193

Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program *(Report)* 113285

**067 Weapons Systems**

Cost Estimates for U.S. and Canadian F A-18 Strike Fighters *(Report)* 113188

Evaluation of EF-111A Extended Development and Full-Scale Production Decision *(Report)* 113375

Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program *(Report)* 113392

**058 Department of Defense - Procurement & Contracts**

[illegible] Contract Price Is [illegible] and Proper Action Has [illegible] Taken To Improve [illegible] Accounting and [illegible] Systems *(Report)* 113222

[illegible] Problems at [illegible] and Scrap Metal Dispos[illegible] Plant *(Re* 113360

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**150 International Affairs**

**152 Conduct of Foreign Affairs**

Sole-Source Passport Office Lamination Contract *(Report)* 113189

**153 Foreign Information and Exchange Activities**

U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined *(Report)* 113371

**250 General Science, Space, and Technology**

**251 General Science and Basic Research**

The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments *(Report)* 113202

Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

**270 Energy**

Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable *(Report)* 113341

**271 Energy Supply**

Oil and Gas Exploration of the National Petroleum Reserve in Alaska *(Report)* 113172

Department of Energy Procurement Activities *(Report)* 113234

Oil and Natural Gas From Alaska, Canada and Mexico--Only Limited Help for U.S. *(Report)* 113264

Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics *(Report)* 113329

U.S. Fast Breeder Reactor Program Needs Direction *(Report)* 113359

Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use *(Report)* 113374

Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California *(Report)* 113395

**272 Energy Conservation**

Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation *(Report)* 113195

**276 Energy Information, Policy, and Regulation**

Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts *(Report)* 113224

The Foreign Tax Credit and U.S. Energy Policy *(Report)* 113256

Proposed Interim Consolidation of the Nuclear Regulatory Commission *(Report)* 113307

Three Mile Island: The Most Studied Nuclear Accident in History *(Report)* 113337

**300 Natural Resources and Environment**

**301 Water Resources**

Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

Ground Water Overdrafting Must Be Controlled *(Report)* 113294

**302 Conservation and Land Management**

Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area *(Report)* 113244

**304 Pollution Control and Abatement**

Indoor Air Pollution: An Emerging Health Problem *(Report)* 113396

**350 Agriculture**

Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports *(Report)* 113192

**352 Agricultural Research and Services**

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

Procedures for Testing Garbage To Be Fed to Swine Need Strengthening *(Report)* 113292

**370 Commerce and Housing Credit**

Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**376 Other Advancement and Regulation of Commerce**

Proposed Title V to S. 262 *(Report)* 113385

Review of Report Concerning Investment Tax Credit *(Report)* 113386

**400 Transportation**

Transportation Issues in the 1980's *(Staff Study)* 113247

**404 Ground Transportation**

Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113239

Highway Safety Research and Development--Better Management Can Make It More Useful *(Report)* 113240

Transportation Issues in the 1980's *(Staff Study)* 113247

**405 Air Transportation**

Transportation Issues in the 1980's *(Staff Study)* 113247

The Changing Airline Industry: A Status Report Through 1979 *(Report)* 113340

**406 Water Transportation**

Transportation Issues in the 1980's *(Staff Study)* 113247

**450 Community and Regional Development**

Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**451 Community Development**

More Improvements Can Be Made in HUD's Research and Technology Activities *(Report)* 113248

**500 Education, Training, Employment and Social Services**

**502 Higher Education**

Status of Special National Direct Student Loan Funds *(Report)* 113357

**503 Research and General Education Aids**

OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978 *(Report)* 113237

**504 Training and Employment**

Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio *(Report)* 113242

Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors *(Report)* 113331

**505 Other Labor Services**

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**506 Social Services**

Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc. *(Report)* 113190

**550 Health**

**551 Health Care Services**

Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS *(Report)* 113282

Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**552 Health Research and Education**

Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program *(Report)* 113221

**554 Health Planning and Construction**

Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management *(Report)* 113339

**557 Nursing Homes**

Comments on a Study on the Effects of a Restrictive Drug Formulary *(Report)* 113387

**558 Education and Training of Health Care Work Force**

FDA's Regulation of Gentian Violet Appears Reasonable *(Report)* 113187

**600 Income Security**

**601 General Retirement and Disability Insurance**

Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program *(Report)* 113377

**602 Federal Employee Retirement and Disability**

Apportioning Retirement Benefits to Former Spouses of Federal Employees *(Report)* 113185

Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health Insurance Trust Funds *(Report)* 113236

**604 Public Assistance and Other Income Supplements**

VA Improved Pension Program: Some Persons Get More Than They Should and Others Less *(Report)* 113241

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113300

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113301

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113302

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113303

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113304

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113305

Review of Selected Aspects of Low Income Energy Assistance *(Report)* 113306

Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**700 Veterans Benefits and Services**

**703 Hospital and Medical Care for Veterans**

Five Contracts Awarded by VA at the End of Fiscal Year 1979 *(Report)* 113186

**704 Veterans Housing**

Domestic Housing and Community Development Issues for Planning *(Staff Study)* 113393

**750 Administration of Justice**

**751 Federal Law Enforcement Activities**

Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions *(Report)* 113297

**753 Federal Correctional Activities**

The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities *(Report)* 113327

**800 General Government**

**801 Legislative Functions**

The Foreign Tax Credit and U S Energy Policy *(Report)* 113256

Yearend Obligations Broken Down by Subcommittee Jurisdiction *(Report)* 113388

Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980 *(Report)* 113394

**802 Executive Direction and Management**

Increasing Costs, Competition May Hinder U S Position of Leadership in High Energy Physics *(Report)* 113329

**803 Central Fiscal Operations**

Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

Year End Spending Patterns for Six Object Classes in Eight Agencies *(Report)* 113344

**804 General Property and Records Management**

Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska *(Report)* 113298

Foresighted Planning and Budgeting Needed for Public Buildings Program *(Report)* 113328

**805 Central Personnel Management**

Interagency Advisory Group for Personnel Policy and Operations *(Report)* 113308

**806 Other General Government**

An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States *(Report)* 113372

**807 Tax Administration**

The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns *(Report)* 113246

**900 Interest**

**901 Interest on the Public Debt**

Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

**1001 Automatic Data Processing**

Improvements Needed in NOAA's Long-Range ADP Plans *(Report)* 113171

VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs *(Report)* 113238

Electronic Funds Transfer--Its Potential for Improving Cash Management in Government *(Report)* 113338

Review of the District of Columbia's Automatic Data Processing Operations *(Report)* 113376

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**1005 Impoundment Control Act of 1974**

A Review of U S Macroeconomic Developments & Policies, 1946-78 *(Other)* 113373

**1006 Nondiscrimination and Equal Opportunity Programs**

Employment Service Needs To Emphasize Equal Opportunity in Job Referrals *(Report)* 113330

**1007 Procurement--Other Than Defense**

Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud *(Report)* 113243

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies *(Report)* 113378

**1008 Congressional Information Services**

Analysis of Requirements for Recurring Reports to the Congress *(Report)* 113345

**1100 Financial Management and Information Systems**

Progress in Improving Program and Budget Information for Congressional Use *(Report)* 113245

**1101 Accounting Systems in Operation**

Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports *(Report)* 113194

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# CITATION SECTION

# SAMPLE CITATION

Accession Number: **109102**

Title/Subtitle (Invented Titles are Bracketed): ***Problems in Preventing the Marketing of Raw Meat and Poultry Containing Potentially Harmful Residues.*** HRD-79-10; B-164031(2).

Document Date: April 17, 1979. 56 pp. plus 6 appendices (31 pp.)

Type of Document: *Report* to Congress; by Elmer B. Staats, Comptroller General.

Addressee

Author

Document/Report Number

Pagination

GAO Issue Area (Code Numbers in Parentheses): **Issue Area:** Consumer and Worker Protection: Identification of Hazardous Consumer Products (0909).

**Contact:** Human Resources Division.

GAO Contact

Budget Function (Code Numbers in Parentheses): **Budget Function:** Health: Prevention and Control of Health Problems (0553).

**Organization Concerned:** Food and Drug Administration; Environmental Protection Agency; Department of Health, Education, and Welfare.

Agency/Organization Concerned

Congressional Relevance: **Congressional Relevance:** Congress.

Legislative Authority: **Authority:** Federal Food, Drug, and Cosmetic Act. Federal Meat Inspection Act. Poultry Products Inspection Act. Federal Insecticide, Fungicide, and Rodenticide Act.

Abstract: **Abstract:** **Federal efforts to protect consumers from illegal and potentially harmful residues of animal drugs, pesticides, and environmental contaminants in raw meat and poultry have not been effective. It is estimated that 14 percent by dressed weight of the meat and poultry sampled by the Department of Agriculture** (USDA) between 1974 and 1976 contained illegal substances. Residues of many of these substances have been found in raw meat and poultry, often at levels exceeding established tolerances. The Food and Drug Administration (FDA), Environmental Protection Agency (EPA), and USDA share responsibility for making sure that only safe levels of drugs, pesticides, and environmental contaminants are present in raw meat and poultry. ***Findings/Conclusions:*** Efforts by the three agencies to protect consumers from illegal and potentially harmful residues have not been effective. The extent to which the public is exposed to illegal residues has not been accurately estimated. Meat and poultry from violative animals are generally marketed before violation is discovered and cannot be recalled. Actions taken to prevent future shipments of residue contaminated meat and poultry have been inadequate. ***Recommendation To Congress:*** Congress should amend: the Federal Meat Inspection Act and the Poultry Products Inspection Act to authorize USDA to quarantine animals from a violative grower and require growers to place an identification tag on animals before they are marketed; the Federal Food, Drug, and Cosmetic Act to make misuse of an animal drug illegal and to authorize the use of civil penalties for residue violations; and the Federal Insecticide, Fungicide, and Rodenticide Act to better enable the EPA to identify the possible misuse of pesticides. ***Recommendation To Agencies:*** The Secretaries of Agriculture and Health, Education, and Welfare and the Administrator of EPA should improve their programs for preventing the marketing of raw meat and poultry containing illegal residues.

Findings/Conclusions

Recommendation to Congress

Recommendation to Agencies

**113171**

***[Improvements Needed in NOAA's Long-Range ADP Plans].*** CED-80-136; B-199898. August 29, 1980. 9 pp.

*Report* to Philip M. Klutznick, Secretary, Department of Commerce; by Henry Eschwege, Director, GAO Community and Economic Development Division.

**Issue Area:** Automatic Data Processing (0100).
**Contact:** Community and Economic Development Division.
**Budget Function:** Automatic Data Processing (1001).
**Organization Concerned:** Department of Commerce; National Oceanic and Atmospheric Administration; National Oceanic and Atmospheric Administration: National Weather Service; National Oceanic and Atmospheric Administration: National Marine Fisheries Service; National Oceanic and Atmospheric Administration: Environmental Research Laboratories; National Oceanic and Atmospheric Administration: Office of Management and Computer Services.

**Abstract:** A review of the National Oceanic and Atmospheric Administration's (NOAA) management of its automatic data processing (ADP) resources focused on the adequacy of the NOAA efforts to plan for and meet its current and future ADP needs and to ensure the efficient use of such resources. ***Findings/Conclusions:*** NOAA has certain organizational weaknesses that have hindered past efforts to plan for ADP resources and may continue to limit its ability to plan effectively for its future ADP needs. It has not defined the central planning office's authority to prepare agency-wide plans, which establish priorities and objectives and consolidate the ADP needs of various programs. Some of the agency's main program elements, such as the National Weather Service, the National Marine Fisheries Service, and the Environmental Research Laboratories, have not adequately planned to meet their own long-range ADP requirements. Improvements are needed in integrating separate ADP project plans and in defining and consolidating program requirements. ***Recommendation To Agencies:*** The Secretary of the Department of Commerce should, in evaluating the plans provided by NOAA and other Department agencies, review the organizational structure, policies, procedures, and processes used to collect the information to assure that actions proposed in the plans are the most efficient and effective alternatives. Further, the Secretary should direct the NOAA Administrator to give the Office of Management and Computer Services (OMCS) the authority necessary to require the main program elements to provide information for the NOAA-wide plans. As a minimum, OMCS should have the authority to require formalized ADP planning structures for ADP at the main program elements.

**113172**

***[Oil and Gas Exploration of the National Petroleum Reserve in Alaska].*** EMD-80-111; B-199993. August 29, 1980. 5 pp.

*Report* to Sen. Henry M. Jackson, Chairman, Senate Committee on Energy and Natural Resources; Rep. Morris K. Udall, Chairman, House Committee on Interior and Insular Affairs; by Elmer B. Staats, Comptroller General.

**Issue Area:** Energy: Federal Government Trusteeship Over Energy Sources on Federal Lands (1614); Land Use Planning and Control: Management of Federal Lands (2306).
**Contact:** Energy and Minerals Division.
**Budget Function:** Energy: Energy Supply (0271).
**Organization Concerned:** Department of Energy; Department of the Interior.
**Congressional Relevance:** *House* Committee on Interior and Insular Affairs; *Senate* Committee on Energy and Natural Resources; *Rep.* Morris K. Udall; *Sen.* Henry M. Jackson.
**Authority:** P.L. 94-258.

**Abstract:** GAO presented its reasons for believing that a leasing program is the best approach to developing potential oil and gas resources in the National Petroleum Reserve in Alaska (NPRA) and its reasons for encouraging early action by Congress on proposed legislation to accomplish this. In 1978, GAO expressed concern that exploration activity might be brought to a conclusion and a decision made on the future use of NPRA without a true assessment of its oil and gas potential. Therefore, it urged the Department of the Interior to develop an overall plan setting forth the status of the exploration program and its best estimate of the amount of additional exploration required to complete an assessment of oil and gas potential which would be sufficiently reliable for Congress to use in deciding how to proceed on the program. It has been suggested that consideration be given to leasing out the reserve for exploration by private industry. Several bills to do this have been held up in committees or have become overshadowed by the Alaskan lands bill. ***Findings/Conclusions:*** Early action and early leasing could save Federal money and possibly make more domestic oil and gas available sooner, helping to reduce the Nation's dependence on imports. Delay in authorizing leasing may spur action to continue a costly and marginally-effective Federal exploration program at costs up to or exceeding $150 million a year, as an alternative to leaving NPRA in an unexplored and undeveloped state. ***Recommendation To Congress:*** The House Committee on Interior and Insular Affairs should act favorably on legislation to authorize the leasing of NPRA to private industry for exploration and development.

**113173**

***[Entitlement to Reimbursement of Real Estate Expenses].*** B-199316. August 29, 1980. 3 pp.

*Decision* re: Claims for Real Estate Expenses of Defense Mapping Agency Employees Transferred From Panama; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** Defense Mapping Agency.
**Authority:** Panama Canal Act of 1979 (P.L. 96-70; 93 Stat. 468). F.T.R. para. 2-6.1e. B-189898 (1977). B-193340 (1978). 5 U.S.C. 5724a(a)(4).

**Abstract:** The Director of Personnel of the Defense Mapping Agency asked if agency employees who were transferred from Panama to Texas might be reimbursed for the sale of their former residences in the United States made more than 2 years after their transfer to Panama. The employees occupied Government quarters in the Canal Zone and maintained permanent residences at their old U.S. duty stations. As distinguished from transfers between two duty stations within the United States, these employees were limited to tours of duty of between 2 and 5 years and were guaranteed return rights to their former positions and return transportation to their former duty stations. Incident to the transfer to Texas, all of the employees had been offered the option to exercise their return rights to their former duty stations. Regulations specify that employees may not be reimbursed for the sale of their former residences made more than 2 years after the dates of the transfers. This regulation may not be waived or modified by the employing agency or GAO regardless of the circumstances present. The transfer to Panama and the transfer from Panama to Texas were separate and distinct transfers of official station with separate reimbursement for travel and relocation expenses. There is no authority for treating this transfer as part of an earlier transfer. There is no authority for the reimbursement of real estate expenses incurred more than 2 years from the date of transfer.

**113174**

***[Reconsideration of Protest Against Army Solicitation].*** B-198850. August 29, 1980. 5 pp.

*Decision* re: Bayou State Trucking Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Department of the Army; Bayou State Trucking Inc.
**Authority:** 4 C.F.R. 20. 54 Comp. Gen. 66. B-188450 (1977). B-190411 (1977). B-193731 (1979).
**Abstract:** A firm requested reconsideration of a GAO decision which was dismissed as untimely. The firm submitted evidence that it had filed a timely protest, and GAO considered the protest on the merits. The solicitation was for trucking services. Following bid opening, mathematical errors were discovered in four of the five bids submitted. After error corrections, the award was made. A statement in the solicitation erroneously estimated quantities for 1 year as the quantities actually needed for the entire 3-year requirement. The protester was the only bidder to multiply by three times the estimated quantities to obtain the extended price. It contended that only its bid was responsive. When contacted by the agency, all four of the other bidders confirmed their bid prices as being for the 3-year term of the contract. Even under recalculation, the protester's bid remained high. While the solicitation was ambiguous regarding the estimated quantities, GAO did not find the protester prejudiced by the situation. The protester also alleged that the other bidders bid too low to properly perform the contract as required. The mere fact that a bidder may have submitted a below-cost bid does not constitute a legal basis for precluding a contract award. To reject a bid as being unreasonably low would require a determination that the bidder was not responsible. GAO does not review protests against affirmative determinations of responsibility unless either fraud is shown, or the solicitation contains definitive responsibility criteria which allegedly have not been applied. In this case, whether the contractor was complying with the contract requirements was a matter of contract administration. It is the agency's responsibility to take appropriate action if the contract is not properly performed. The protest was denied.

**113175**
***[Protest Based Upon Solicitation Improprieties].*** B-199941. August 29, 1980. 1 p.
*Decision* re: AFM, Inc.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Department of the Army: Army Armament Materiel Readiness Command, Rock Island, IL; AFM, Inc.
**Authority:** 4 C.F.R. 20.2.
**Abstract:** A protesting firm asserted that, as transportation costs were specified as an evaluation factor, it was unfair for the request for proposals to have designated as a loading destination a location near two of its competitors. It also contended that the offeror's utilization of equipment should not have been specified as an evaluation factor in the solicitation, as all offerors were industrial base contractors with Government owned equipment under layaway contracts. Protests based upon alleged improprieties apparent upon the face of the solicitation must be filed prior to the closing date for receipt of initial proposals. As this protest was filed after that date, the protest was dismissed.

**113176**
***[Protest of Army Contract Award].*** B-198729. August 29, 1980. 2 pp.
*Decision* re: Adirondack Direct; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Transportation Law.
**Organization Concerned:** Adirondack Direct; Garrett Church Furniture; Department of the Army.
**Authority:** 4 C.F.R. 20.10. B-193139 (1978).
**Abstract:** A firm protested the award of a contract for chapel furnishings, contending that the awardee's bid was nonresponsive for failure to conform to the brand name or equal specifications in the invitation for bids. Subsequent to the filing of this protest and the submission of comments by the interested parties, the firm filed suit in the U.S. District Court raising the same material issues as those raised in the protest. The firm filed for a temporary restraining order and other judicial relief. GAO does not decide protests where the material issues are presently before a court unless the court requests, expects, or otherwise expresses an interest in a GAO decision. The firm did not request a restraining order pending a GAO decision, and the court did not indicate any interest in a GAO decision. Therefore, GAO will not decide this protest.

**113177**
***[Claim for Additional Per Diem].*** B-199464. August 29, 1980. 3 pp.
*Decision* re: Lt. Col. J. H. Champion, USMC; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** United States Marine Corps.
**Authority:** 23 Comp. Gen. 713. 24 Comp. Gen. 439. 37 Comp. Gen. 627. 44 Comp. Gen. 405. 48 Comp. Gen. 119. 51 Comp. Gen. 736. 55 Comp. Gen. 1241. 1 J.T.R. para. M3000.
**Abstract:** A Marine Corps officer requested further consideration of his claim for additional per diem incident to temporary additional duty. The matter of this claim was the subject of a settlement by the Claims Division which disallowed it because the amendment to the orders which would have permitted increased per diem were issued retroactively after the travel in question was performed. The officer contended that the orders, as originally issued, were in error in that those orders provided for group travel when they were supposed to show individual travel. In addition, he indicated that the error was not detected by the authenticating officer, disbursing officer, or any of those affected until after the travel was performed. The officer and others performed temporary duty travel under competent orders which contained the designation group travel instead of individual travel, which would permit greater reimbursement for per diem. The general rule is that legal rights and liabilities with regard to travel allowances vest when travel is performed under orders issued by competent authority. As a result, the orders could not be revoked or modified retroactively. While the claimant alleged that the orders were improperly marked, there was nothing contained elsewhere in those orders which would support the claim. Therefore, there was no apparent error evidenced in the orders and no basis existed for recognizing the modification as constituting a proper amendment to those orders. Accordingly, the action taken by the Claims Division was sustained.

**113178**
***[Protest of Bid Rejection for Failure To Acknowledge Amendment].*** B-199759. August 29, 1980. 2 pp.
*Decision* re: American Office Equipment Co.; Parkway Business Machines Co.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Transportation Law.
**Organization Concerned:** American Office Equipment Co.; Parkway Business Machines Co.; General Services Administration.
**Authority:** 4 C.F.R. 20.2(b)(2).
**Abstract:** Two companies protested the rejection of their bids as nonresponsive for failure to acknowledge an amendment to the solicitation and the substance of the amendment. Bid Protest Procedures require that a protest be filed within 10 working days after the basis for the protest is known. One company's protest was received 29 working days after it was advised of the grounds for the nonresponsive determination; the other company's protest was received 32 working days after being so advised. Accordingly, the protests were dismissed as untimely.

**113179**

***[Request for Relief From Liability].*** B-198582. August 27, 1980. 2 pp.

*Letter* to Robert E. Chasen, Commissioner of Customs, United States Customs Service; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: General Government Matters.
**Organization Concerned:** United States Customs Service.

**113180**

***[Claim for Additional Amounts of Military Pay and Allowances].*** B-140972. August 27, 1980. 2 pp.

*Letter* to Rep. Lindy Boggs; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Army: Army Discharge Review Board.
**Congressional Relevance:** *Rep.* Lindy Boggs.
**Authority:** 42 U.S.C. 405(h).
**Abstract:** A widow expressed dissatisfaction concerning a GAO decision which denied her claim for additional amounts of military pay and allowances believed due on account of the action taken by the Army Discharge Review Board to upgrade the character of her late husband's discharge certificate from other than honorable to general. She claimed her husband's military pay records were improperly lost or destroyed by Government agents, and the loss of those records was an unacceptable reason for GAO denial of her claim. She also questioned how this decision might affect her Social Security benefits. GAO cannot rule on these questions as they are under the jurisdiction of the Social Security Administration. GAO has no basis for revising its decision regarding her claim for additional military pay, and cannot properly or lawfully authorize further payments beyond those which have previously been made to her.

**113181**

***[Request for Relief From Liability].*** B-199790. August 26, 1980. 2 pp.

*Letter* to Dennis J. Keilman, Assistant Regional Administrator, General Services Administration: Region 5, Chicago, IL; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: General Government Matters.
**Organization Concerned:** General Services Administration: Region 5, Chicago, IL.
**Authority:** B-188733 (1980). B-188773 (1979). B-183559 (1975). 31 U.S.C. 82a-1.

**113182**

***[Procedures for Decisions on Appropriated Fund Expenditures].*** B-180021. August 26, 1980. 1 p. plus 1 attachment (4 pp.).

by Harry R. Van Cleve, Deputy General Counsel, GAO Office of the General Counsel.

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Authority:** Civil Service Reform Act of 1978. 4 C.F.R. 21. 45 Fed. Reg. 55689. 44 U.S.C. 1510.
**Abstract:** The final rule amending the GAO procedures for requesting decisions in Federal labor-management relations matters is presented as printed in the Federal Register.

**113183**

***[Theophilus A. Hearns, An Incompetent Person v. United States].*** B-199678. August 27, 1980. 4 pp.

*Letter* to Alice Daniel, Assistant Attorney General, Department of Justice: Civil Division; by David F. Engstrom (for Edwin J. Monsma, Assistant General Counsel), GAO Office of the General Counsel.

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Navy: Naval Reserve; Department of Justice: Civil Division.
**Authority:** Hearns v. United States, Ct. Cl. No. 364-80C (1980). Rutherford v. United States, Ct. Cl. No. 500-76 (1978). 10 U.S.C. 1215. 10 U.S.C. 101(22). 10 U.S.C. 101(31). 10 U.S.C. 1201. 10 U.S.C. 1203.

**113184**

***[Prohibition Against Use of Travel Agents].*** B-199963. August 27, 1980. 2 pp.

*Letter* to Rep. James C. Wright, Jr.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Transportation Law.
**Organization Concerned:** Lone Star Travel Center.
**Congressional Relevance:** *Rep.* James C. Wright, Jr.
**Authority:** 4 C.F.R. 52.3. B-103315 (1979). H. Rept. 96-339.
**Abstract:** GAO was questioned on the prohibition against the use of travel agents to procure official Government travel. The problems with such use are that: (1) the cost of dealing with travel agents would be higher than dealing directly with the carriers; (2) air fares would be raised if the airlines had to pay commissions on Government travel procured by travel agents; and (3) travel agents may be unfamiliar with statutes and regulations concerning Government travel. A 1978 GAO study on this prohibition showed inconclusive benefits from lifting the prohibition. However, GAO is willing to lift the ban for individual agencies on the basis of analyses or tests showing that the use of travel agents will result in a more efficient and less costly travel operation.

**113185**

***[Apportioning Retirement Benefits to Former Spouses of Federal Employees].*** FPCD-80-56; B-199338. July 28, 1980. 3 pp. plus 1 enclosure (12 pp.).

*Report* to Rep. Patricia Schroeder; Rep. Gladys N. Spellman; Rep. James A. S. Leach; Sen. Abraham A. Ribicoff; Sen. Max S. Baucus; by Elmer B. Staats, Comptroller General.

**Issue Area:** Personnel Management and Compensation: Retirement Policies and Practices (0307).
**Contact:** Federal Personnel and Compensation Division.
**Budget Function:** Income Security: Federal Employee Retirement and Disability (0602).
**Organization Concerned:** Office of Personnel Management.
**Congressional Relevance:** *Rep.* Patricia Schroeder; *Rep.* Gladys N. Spellman; *Rep.* James A. S. Leach; *Sen.* Abraham A. Ribicoff; *Sen.* Max S. Baucus.
**Authority:** P.L. 95-366
**Abstract:** In an examination of the economic protection provided to widows or widowers and divorced spouses of Federal employees, GAO evaluated the equity of the current law, its administration by the Office of Personnel Management (OPM), and some possible alternative methods of providing retirement income to former spouses. The law requires OPM to comply with State court orders or decrees that divide civil service retirement benefits in divorce actions. ***Findings/Conclusions:*** As of March 1980, OPM had received 261 court orders requesting apportionment of retirement

benefits; only 30 of them were not honored. In general, GAO believes that the current provisions in the civil service and Foreign Service retirement systems allowing the courts to decide, on a case-by-case basis, whether and in what amounts retirement benefits should be apportioned between Federal retirees and their former spouses are preferable to automatic apportionment of these benefits as has been proposed in legislation now before Congress. Except for garnishment, the uniformed services retirement system does not allow direct payment of retirement benefits to former spouses in compliance with court orders. Under Social Security, divorced spouses are entitled to an amount equal to 50 percent of the retired worker's benefits if the marriage lasted at least 10 years; the retiree's benefits are not reduced, and a second spouse may also receive benefits. Full survivor benefits are also guaranteed to divorced spouses after 10 years of marriage. The extension of social security to all Federal personnel, with appropriate redesign of the civil service and other Federal retirement systems to supplement social security where necessary, is an alternative approach. GAO has supported and called for expanded social security coverage as one of the needed policy changes to insure greater equity and consistency in Federal retirement programs.

**113186**

***[Five Contracts Awarded by VA at the End of Fiscal Year 1979].*** HRD-80-101; B-199666. July 31, 1980. ***Released*** September 2, 1980. 2 pp. plus 1 enclosure (33 pp.).

*Report* to Rep. Ronald M. Mottl, Chairman, House Committee on Veterans' Affairs: Special Investigations Subcommittee; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Health Programs (1200); Health Programs: More Efficient and Effective Administration of Programs (1265).
**Contact:** Human Resources Division.
**Budget Function:** Veterans Benefits and Services: Hospital and Medical Care for Veterans (0703).
**Organization Concerned:** Veterans Administration; Office of Management and Budget.
**Congressional Relevance:** *House* Committee on Veterans' Affairs: Special Investigations Subcommittee; *Rep.* Ronald M. Mottl.
**Abstract:** As a result of hearings before the Subcommittee on Special Investigations, House Committee on Veterans' Affairs, a review was conducted of five Veterans Administration (VA) procurements for automatic data processing services and equipment. These contracts were included in a number of procurements entered into by VA at the end of fiscal year 1979 for which the Office of Management and Budget (OMB) recommended termination due to procurement irregularities. ***Findings/Conclusions:*** About half of the OMB charges were confirmed. It was concluded that VA violated certain Federal Procurement Regulations and/or did not adhere to generally accepted good business practices in awarding the contracts. The VA officials responsible for the questionable actions relating to the procurements have been identified. In some cases, the contracting officer was cited as the responsible official, although many other officials involved in the procurements have also been identified. It was noted that VA is continuing to investigate the OMB observation of favoritism.

**113187**

***FDA's Regulation of Gentian Violet Appears Reasonable.*** HRD-80-91; B-199509. August 14, 1980. ***Released*** August 27, 1980. 61 pp. plus 5 appendices (17 pp.).

*Report* to Sen. Herman E. Talmadge, Chairman, Senate Committee on Agriculture, Nutrition, and Forestry; Sen. Jesse A. Helms, Ranking Minority Member, Senate Committee on Agriculture, Nutrition, and Forestry; by Elmer B. Staats, Comptroller General.

**Issue Area:** Consumer and Worker Protection: Evaluation of Drug Safety and Efficacy Prior to Marketing (0907).
**Contact:** Human Resources Division.
**Budget Function:** Health: Education and Training of Health Care Work Force (0558).
**Organization Concerned:** Department of Health and Human Services; Food and Drug Administration; Animal Health Products, Inc.; Dan-Mar Enterprises, Inc.; Naremco, Inc.
**Congressional Relevance:** *Senate* Committee on Agriculture, Nutrition, and Forestry; *Sen.* Herman E. Talmadge; *Sen.* Jesse A. Helms.
**Authority:** Food, Drug and Cosmetic Act (21 U.S.C. 348). Food Additives Amendment of 1958 (P.L. 85-929). Drug Amendments of 1962 (P.L. 87-781). 21 C.F.R. 570.30. 21 C.F.R. 180.1(a). 21 C.F.R. 310.100. 45 Fed. Reg. 31422. 44 Fed. Reg. 19035. United States v. Naremco, 553 F 2d 1138 (8th Cir. 1977). United States v. Dan-Mar Enterprises, Inc., Civ. Act. No. C78-08G (N.D. Ga. 1978). United States v. 41 Cases, More or Less of an Article of Food and Drug (Myconex), Civ. Act. No. 4617 (E.D. Tex. 1966). United States v. An Article of Food and Drug Labeled Naremco Medi-Matic Free Choice Poultry Formula, Civ. Act. No. 986 (W.D. Ark. 1966). United States v. Articles of Food and Drug (Coli-Trol 80 Medicated), 372 F. Supp. 915 (N.D. Ga. 1974). 21 U.S.C. 321(s). 21 U.S.C. 321(p). 21 U.S.C. 201(f). 21 U.S.C. 201(w). 21 U.S.C. 304. 21 U.S.C. 402(a)(2)(c). 21 U.S.C. 334(b).
**Abstract:** Gentian violet, a dye, has been used as an animal drug to treat many diseases and as an additive in animal feed to inhibit mold. When drugs are to be used in food-producing animals, the Food and Drug Administration (FDA) must approve the safety of any residues in food. FDA actions in regulating gentian violet have been questioned. GAO was asked to determine whether some FDA officials exhibited malice against certain companies and individuals; the FDA regulatory machinery was improperly used to force some companies out of the market; and FDA was unresponsive to efforts made in good faith by three companies to resolve problems concerning the adequacy of safety and effectiveness data they submitted to FDA. ***Findings/Conclusions:*** No evidence was found to substantiate any of the charges. FDA has not approved gentian violet for use in veterinary products and has determined that gentian violet does not qualify for interim food additive status. The safety and effectiveness of gentian violet in veterinary use have not been demonstrated, nor has its effectiveness as a mold inhibitor in animal feeds been demonstrated. According to FDA, the safety must be demonstrated in long-term tests designed to assess whether or not gentian violet is carcinogenic. The GAO review disclosed that the regulatory actions taken by FDA against three firms were not unreasonable in view of the FDA decisions that gentian violet products are unapproved as food additives and new animal drugs. In nine out of ten cases, FDA action has been upheld by the courts. One firm reviewed, Naremco, alleged that certain actions taken by FDA were unreasonable, overstepped agency authority, and or deliberately attempted to discredit or drive the firm out of business. Although some statements made by FDA officials to Members of Congress were inaccurate, GAO could not conclude that these were deliberate attempts to discredit or drive the firm out of business. Officials of the other two firms reviewed believed that failure to gain approval for their products was a result of the FDA dealings with Naremco and that the FDA refusal to permit them to market gentian violet products was the result of the FDA desire to restrict Naremco from selling such products.

**113188**

***[Cost Estimates for U.S. and Canadian F/A-18 Strike Fighters].*** PSAD-80-74; B-196883. August 19, 1980. ***Released*** August 29, 1980. 5 pp.

*Report* to Sen. John C. Danforth; by Walton H. Sheley, Jr., Acting Director, GAO Procurement and Systems Acquisition Division.

**Issue Area:** Procurement of Major Systems: Congressional Information on the Issues Concerning Systems for Which Funds Are Requested (3001); Procurement of Major Systems: Adequacy of Cost Estimates To Support Acquisition Program Management (3052).
**Contact:** Procurement and Systems Acquisition Division.
**Budget Function:** National Defense: Weapons Systems (0057).
**Organization Concerned:** Department of Defense; Department of the Navy.
**Congressional Relevance:** *Sen.* John C. Danforth.
**Abstract:** Information was requested on the cost of the U.S. F/A-18 strike fighter aircraft. The U.S. F/A-18 aircraft's unit cost was compared to the the same aircraft ordered by Canada. ***Findings/Conclusions:*** The Canadian unit cost estimate of the F/A-18 aircraft is lower than the unit cost of U.S. aircraft which will be delivered over the same time period. However, the estimate for the Canadian purchase does not include research and development costs and certain nonrecurring production costs. In addition, numerous other factors were considered in comparing the unit cost estimates for the U.S. and Canadian aircraft, including the following: (1) the Canadian purchase was a direct sale transaction between Canada and the F/A-18 prime contractor; (2) the Canadian purchase represented a commitment for full procurement quantity, whereas the U.S. purchase must be approved in increments each year; (3) the Canadian contract called for a fixed conversion rate for U.S. and Canadian currency; (4) considerable industrial benefits will result for Canada; (5) the Canadian aircraft will be produced on the same production line as the U.S. aircraft; and (6) the periodic payment provisions of the Canadian contract are more attractive to the contractor than provisions in U.S. contracts which limit periodic payments to 80 percent of costs.

**113189**
***[Sole-Source Passport Office Lamination Contract].*** ID-80-56; B-199954. August 21, 1980. ***Released*** August 26, 1980. 6 pp.
*Report* to Sen. Charles H. Percy; by J. Kenneth Fasick, Director, GAO International Division.

**Issue Area:** International Affairs: Management of Foreign Affairs (0614).
**Contact:** International Division.
**Budget Function:** International Affairs: Conduct of Foreign Affairs (0152).
**Organization Concerned:** Department of State; General Binding Corp.
**Congressional Relevance:** *Sen.* Charles H. Percy.
**Abstract:** In response to a congressman's inquiries concerning a Department of State procurement, GAO provided assistance in answering several questions concerning the contract. While the State Department complied with the applicable statutory and regulatory requirements for the award of a sole-source contract, the tests for the procured item were not documented.

**113190**
***[Investigation Into Allegations of Wrongdoing by Cascade County Housing for the Developmentally Disabled, Inc.].*** HRD-80-108; B-199955. August 22, 1980. ***Released*** August 28, 1980. 7 pp.
*Report* to Rep. Ronald C. Marlenee; by Edward A. Densmore (for Gregory J. Ahart, Director), GAO Human Resources Division.

**Issue Area:** Education: Non-Line-of-Effort Assignments (3351).
**Contact:** Human Resources Division.
**Budget Function:** Education, Training, Employment and Social Services: Social Services (0506).
**Organization Concerned:** Cascade County Housing for the Developmentally Disabled, Inc.; Montana: Department of Social and Rehabilitation Services; Department of Health and Human Services; Social Security Administration
**Congressional Relevance:** *Rep.* Ronald C. Marlenee.
**Authority:** Social Security Act.
**Abstract:** GAO audited the Cascade County (Montana) Housing for the Developmentally Disabled, Inc. (CCHDD), because of alleged program abuses. Allegations included that CCHDD failed to meet its clients' basic needs for food, shelter, clothing, and medical care; falsified client data for Government records; mismanaged clients' funds; used improper and illegal training programs on clients; and hired unsuitable staff. CCHDD is a nonprofit corporation providing services to developmentally disabled persons. It provides teaching daily living skills to clients in a community group home setting, in a semi-independent living environment, and through day service programs. It also transports clients to various activities and day programs. The services are intended to prevent unnecessary institutionalization of the developmentally disabled. The program received State funds and Social Security Administration funds used to pay for clients' shelter, food, and clothing. ***Findings/Conclusions:*** GAO found that the clients' basic needs were being met, client data had not been falsified for Government records, and training programs for clients were not improper or illegal. On the other hand, client funds had been misused and were not adequately accounted for, and applicants seeking employment were not investigated to screen out those who could pose a risk to the welfare and safety of the developmentally disabled clients. While some of the allegations made against CCHDD were valid, they involved incidents and conditions that existed more than a year ago. CCHDD owed clients varying amounts of money because some employees had misused clients' personal funds. Although CCHDD recognized this debt, it lacked the resources to repay it. Because the employees who misused the funds were not bonded, the clients may never be fully repaid. The group home staff used the clients' allowances to supplement the grocery funds. Inadequate accounting for these allowances prevented GAO from determining the correct balance for any individual client. ***Recommendation To Agencies:*** The Secretary of Health and Human Services, through the Department's regional office, should encourage the State to require, in future contracts with CCHDD, that all employees handling clients' funds be bonded. It should negotiate an agreement under which the State would become the representative payee for CCHDD's clients and thus, assure that the clients' personal funds are adequately accounted for, and encourage the State to require that CCHDD adequately investigate persons seeking employment before hiring them to work in its group homes.

**113191**
***[Transportation Vehicles Available in Europe for Medical Evacuations].*** LCD-80-71; B-198835. June 10, 1980. 11 pp. plus 4 enclosures (6 pp.).
*Report* to Harold Brown, Secretary, Department of Defense; by Richard W. Gutmann, Director, GAO Logistics and Communications Division.

**Issue Area:** Military Preparedness Plans: Movements of Personnel, Equipment, and Supplies (0809).
**Contact:** Logistics and Communications Division.
**Budget Function:** National Defense: Department of Defense - Military (except procurement and contracts) (0051).
**Organization Concerned:** Department of Defense; Department of the Army; Department of the Air Force.
**Abstract:** GAO reviewed Army and Air Force medical transportation vehicles available in Europe to meet wartime medical evacuation needs. The review was directed primarily at evaluating the physical condition of those air and ground vehicles with a dedicated wartime mission of evacuating casualties from the battle area to and among treatment locations intheater. Also included in the review were selected activities in the continental United States with medical transportation vehicles that may be used to augment intheater vehicles during contingencies. ***Findings/Conclusions:***

Although the Army and Air Force have numerous air and ground vehicles which could be used for medical evacuation purposes, most of these vehicles have other primary wartime missions; thus, they may not be available for casualty evacuation when needed. It is essential that vehicles with a dedicated evacuation mission be maintained at a high state of readiness. Many medical units were experiencing difficulty in maintaining the onhand vehicles. The medical units were apprehensive about the capability of their vehicles to perform wartime missions because of operational difficulties which limit their use in a tactical environment. Officials cited inordinate downtime due to lack of needed repair parts. Many of the vehicles are old, have high mileage, and require intensive maintenance. The annual operational readiness rate of Army helicopters is 76 percent. ***Recommendation To Agencies:*** The Secretary of Defense should direct the Army to take action to modify the existing M-886 ambulances to correct the deficiencies noted; reassess the need for onboard communication means to facilitate wartime command and controls of medical evacuation air and ground vehicles; and ensure, in developing future procurement plans for medical evacuation vehicles, that the deficiencies noted with the M-886 and M-792 ground ambulances are adequately considered. He should direct the Army and Air Force to take appropriate action to ensure that needed repair parts are made available to units in Europe and in the continental United States in a more timely manner to reduce the inordinate downtime cited by Army and Air Force officials, and assess the potential for increasing evacuation capability by acquiring ambulance conversion kits for the existing and planned procurement of school and general-purpose buses.

**113192**

***Improvements Are Needed in USDA's Soil and Water Resources Conservation Act Reports.*** CED-80-132; B-199776. September 3, 1980. 10 pp.

*Report* to Bob S. Bergland, Secretary, Department of Agriculture; by Henry Eschwege, Director, GAO Community and Economic Development Division.

**Issue Area:** Water and Water Related Programs: Effective Water Conservation and Reuse Programs (2504).
**Contact:** Community and Economic Development Division.
**Budget Function:** Natural Resources and Environment: Water Resources (0301); Natural Resources and Environment: Conservation and Land Management (0302); Agriculture (0350).
**Organization Concerned:** Department of Agriculture.
**Authority:** Soil and Water Resources Conservation Act of 1977.
**Abstract:** GAO reviewed the Department of Agriculture's (USDA) efforts to promote better water management and conservation, focusing on whether USDA reports required by the Soil and Water Conservation Act of 1977 will contain useful and accurate information for making future water program decisions. ***Findings/ Conclusions:*** The reports do not fully comply with the Act's intent. Initial evaluations by USDA included fewer than half of its current soil and water conservation programs. Evaluation of current programs is incomplete and field personnel have problems developing information for the reports. Implementing water conservation techniques would: require less energy because the amount of water pumped to irrigate crops would be reduced; reduce agricultural water pollution problems; improve fish habitats; and alter streamflows. Institutional and social constraints greatly affect how much water can be saved. The inability to readily transfer water rights is inefficient because it can lock water into relatively low-value historical uses. By not using a water right, a farmer can lose the right, a situation which often causes some farmers to use excessive water. Low-priced water is a major constraint on water conservation because it offers users no incentive to save. Longstanding social attitudes and customs about water development and use are regarded by many Federal and State water experts as major constraints to implementing water conservation. The Soil and Water Resources Conservation Act clearly intended the USDA to evaluate, on a continuing basis, each of its 34 current soil and water conservation programs and to periodically report the results to Congress. Failure to comply with the Act's intent is due primarily to the USDA early decision to limit the analysis to certain programs. USDA would also increase the usefulness of its reports by including additional pertinent data. ***Recommendation To Agencies:*** The Secretary of Agriculture should amend the USDA continuing soil and water resources appraisal process to include in the 1980 reports and all future reports to Congress an assessment of the effects of water conservation; including both advantages and disadvantages on achievable water savings, and a determination of the impact of institutional and social constraints on achievable water savings.

**113193**

***Better Administration of the Military's Article 15 Punishments for Minor Offenses Is Needed.*** FPCD-80-19; B-199425. September 2, 1980. 51 pp. plus 7 appendices (18 pp.).

*Report* to Secretary Harold Brown, Department of Defense; by Hyman L. Krieger, Director, GAO Federal Personnel and Compensation Division.

**Issue Area:** Personnel Management and Compensation: Military Justice (0317).
**Contact:** Federal Personnel and Compensation Division.
**Budget Function:** National Defense: Defense-Related Activities (0054).
**Organization Concerned:** Department of Defense; Department of the Navy; Department of the Army; Department of the Air Force.
**Authority:** 10 U.S.C. 815.
**Abstract:** Article 15 of the Uniform Code of Military Justice is intended to give military commanders a swift, efficient, and easy way to: (1) punish those committing minor offenses; (2) maintain discipline; and (3) deter misconduct. The punishments authorized for article 15 are limited and generally less severe than those that can be imposed by court-martial. Also, unlike a court-martial, an article 15 is not considered a conviction for a criminal offense. However, problems have occurred with the use, implementation, and oversight of article 15. As a result, the maximum benefits possible from its use are not being realized. ***Findings/Conclusions:*** GAO found that article 15 can negatively affect service members' entire careers. The article 15 punishment often becomes a permanent part of the service members's personnel file and can lead to involuntary separation from the service with a less than honorable discharge, which can limit veterans' benefits and civilian employment opportunities. Most of the service members interviewed considered article 15 to be unfair and stated that work efficiency, morale, and career-mindedness are adversely affected by its use. However, senior enlisted personnel generally considered it fair. GAO believes that most commanders conscientiously attempt to make appropriate, fair, and effective decisions in imposing article 15, based on the unique circumstances of each case. However, GAO found that wide disparities exist within and among the services with respect to how offenses are dealt with. The article 15 punishment process involves only a minimum of legal and procedural safeguards. ***Recommendation To Agencies:*** To help maintain discipline; encourage positive behavioral change, job performance, and career-mindedness; and increase the deterrent effect of article 15, the Secretary of Defense should: (1) establish clear goals and objectives of article 15 punishments, (2) improve guidance and information to commanders for imposing article 15, (3) direct the services to periodically evaluate the consistency and effectiveness of the quantity and type of punishments imposed to determine whether additional guidelines are needed, (4) consider greater involvement of the commander's staff judge advocate in deciding whether to impose article 15 and the appropriate punishment, and (5) establish criteria which clearly state when it is appropriate to

use mitigations, remissions, set-asides, and suspensions. To help insure that service members make an informed decision and to protect the members' administrative and procedural rights, the Secretary of Defense should direct the services to: (1) improve military justice training for enlisted personnel to insure their full understanding of the article 15 punishment process; (2) standardize the type and quality of counsel provided in article 15 cases; and (3) evaluate defense counsel staffing levels to determine whether they are adequate so that advice can be made available at reasonable times and locations. The Secretary should also direct the services to develop uniform criteria on the recording and use of article 15 records. Further, the Secretary should propose to the President the following changes to the manual for Courts-Martial: (1) specify the service member's right to consult with independent counsel, define independent counsel, and define the extent of advice that will be provided to service members; and (2) make it clear that the service member's right to refuse article 15 does not expire until punishment is imposed. The manual should also specify that the service member be advised of this.

**113194**

***[Opportunities for Improving the Quality and Efficiency of the Securities and Exchange Commission's Process for Reviewing Reports].*** FGMSD-80-81; B-199434. September 2, 1980. 11 pp.
*Report* to Harold M. Williams, Chairman, Securities and Exchange Commission; by Donald L. Scantlebury, Director, GAO Financial and General Management Studies Division.

**Issue Area:** Accounting and Financial Reporting: Accounting and Financial Regulations for Publicly Held Companies (2814).
**Contact:** Financial and General Management Studies Division.
**Budget Function:** Financial Management and Information Systems: Accounting Systems in Operation (1101).
**Organization Concerned:** Securities and Exchange Commission.
**Congressional Relevance:** *House* Committee on Banking, Finance and Urban Affairs; *Senate* Committee on Governmental Affairs; Governmental Efficiency and the District of Columbia Subcommittee.
**Authority:** Securities Act of 1933. Securities Exchange Act of 1934.
**Abstract:** A review was undertaken of the administrative procedures used by the Securities and Exchange Commission (SEC) in examining company reports to determine whether they comply with Federal legislation requiring them to send periodic financial disclosure reports to SEC. ***Findings/Conclusions:*** While the number of statements and reports filed with SEC has increased dramatically over the last 10 years, the number of people reviewing the reports has been reduced. Consequently, SEC has decreased the number of thorough reviews and resorted to abbreviated reviews despite evidence calling for greater scrutiny of the reports. The annual 10K and 10Q reports, the key source for data used to assess a firm's financial condition, have been particularly subject to the shorter review. Additionally, SEC has devoted increased staff time and computer resources to identifying and following up on firms which either did not file required reports or failed to file them on time. The staff was given little written guidance for reviewing reports. The adequacy of the reviews and the resulting analyses could not be determined. ***Recommendation To Agencies:*** To improve the efficiency and effectiveness of SEC efforts to monitor whether companies filing reports under the securities acts are meeting disclosure requirements, the Chairman, SEC, should: prepare more detailed guidelines telling the reviewing staff what vulnerabilities they should look for and what analysis they should make in reviewing reports, establish a quality review process to (1) check the adequacy of staff reviews, (2) see that the staff follows SEC guidelines, and (3) identify the need for new data and analysis and possible obsolescence of present data and analysis; investigate the [illegible] of using computers to assist in making financial analyses; improve the accuracy of computer files and delinquency reports; [illegible] eliminate unnecessary information from these listings; establish better procedures for following up on delinquent reports to minimize duplication; and evaluate the effectiveness of the delinquent reports program and the remedial action that SEC is taking against delinquent companies.

**113195**

***Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation.*** EMD-80-97; B-197845. September 2, 1980. 54 pp. plus 7 appendices (15 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Income Security and Social Services (1300); Energy: Effect of Federal Efforts on Energy Conservation Action (1607).
**Contact:** Energy and Minerals Division.
**Budget Function:** Energy: Energy Conservation (0272).
**Organization Concerned:** Department of Energy; Office of Management and Budget.
**Congressional Relevance:** Congress.
**Authority:** Energy Conservation and Production Act (P.L. 94-385; 42 U.S.C. 6892). Energy Policy and Conservation Act. Department of Energy Organization Act (42 U.S.C. 7154). National Energy Conservation Policy Act (P.L. 95-619). Energy Security Act (P.L. 96-294).
**Abstract:** The Energy Conservation and Production Act of 1976 authorized four programs to encourage and facilitate the implementation of energy conservation and renewable-resource measures in residences, nonresidential buildings, and industrial plants. The Act specifically requires GAO to review the four program aspects: program effectiveness, energy savings, an accounting by State of the State Energy Conservation Program (SECP), and compliance monitoring, and to report its findings to Congress annually for fiscal years 1977, 1978, and 1979. In the second annual report covering activities through 1978, SECP implementation in four Department of Energy (DOE) regional offices and eight States were reviewed. ***Findings/Conclusions:*** The goal of SECP is to reduce the energy consumption of each State by about 5 percent by 1980. However, the program has been hampered by long delays in enacting required State legislation, slippages in milestone dates, and reductions in scope in many State program measures. Although reported energy savings for 1978 were 13 percent of the goal, GAO did not believe that the goal would be attained by 1980. It believed that the reported savings were overstated and not a valid measure of the actual savings. Deficiencies were identified in the financial and program reporting systems used in the SECP which [illegible] corrected before the States and DOE can effectively [illegible] manage the program. ***Recommendation To Agencies:*** The Secretary of DOE should: reassess the compliance determinations [illegible] States considered to be in compliance with the [illegible] requirements, especially mandatory thermal [illegible]. In cooperation with the States, the Secretary [illegible] both mandatory and optional program [illegible] determine if changes and improvements [illegible] to make them attainable; establish [illegible] milestones that are realistic [illegible] plans and goals accordingly; [illegible] guidance and technical assistance [illegible] and measure both program [illegible] the program. Based [illegible] of State progress [illegible] Secretary should [illegible] goals. Based [illegible] monitoring [illegible] Management [illegible]

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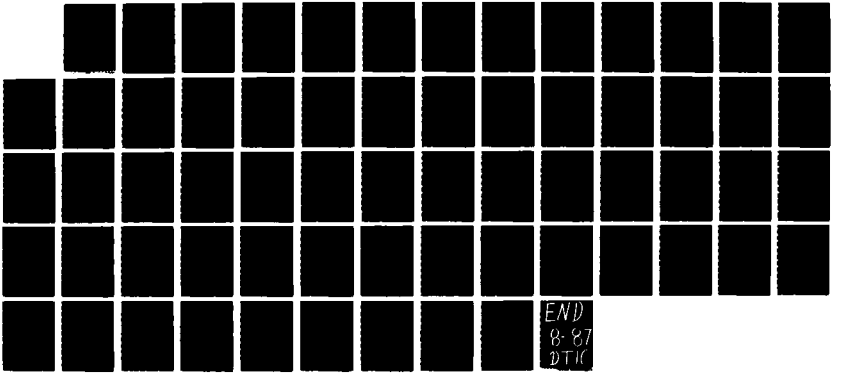

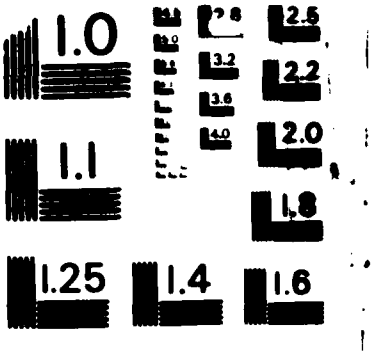


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measure. Finally, the Secretary should review with the States the Federal requirements concerning the use of Federal funds, focusing on letter of credit procedures.

**113196**

***[Protest Against Contract Award].*** B-199578. September 2, 1980. 3 pp.

*Decision* re: C. Engel's Sons, Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** C. Engel's Sons, Inc.; Hood's General Contracting Service; District of Columbia.
**Authority:** Minority Contracting Act. 4 C.F.R. 20.2(b)(1). D.C. Code Ann. §1-147(c)(1). B-189471 (1978). B-193146 (1979). B-193469 (1979).
**Abstract:** A firm protested the award of a contract issued by the District of Columbia (D.C.) for the procurement of fresh foods. The protester contended that: (1) the provision appearing in the invitation, bid, and contract form, which limited award to those certified as minority bidders, was unduly restrictive and was imposed by an unconstitutional law; (2) it should have received the award; (3) the awardee did not have the resources and specialized facilities necessary to comply with the specifications and conditions of the contract; and (4) it was led by certain D.C. Government representatives to believe its prior contract would be extended by 35 days and, as a result, purchased additional quantities of food. GAO held that: (1) the protest challenging the propriety of the solicitation provision was untimely since the protest was not filed prior to bid opening; (2) constitutional attacks on statutes are not generally considered by GAO, but are viewed as matters to be dealt with by the courts; (3) under the rules applicable to advertised bidding, award could not properly be made to the protester since the protester was not a certified minority bidder; (4) the matter of the awardee's responsibility would not be reviewed since neither fraud was alleged on the part of the procuring agency nor did the solicitation contain definitive responsibility criteria that had not been applied; (5) compliance with the specifications of the contract was a matter of contract administration; and (6) if the protester believed that it had a claim for a financial loss, the claim should be filed with the contracting officer. Accordingly, the protest was dismissed in part and summarily denied in part.

**113197**

***[Protest Against Contract Award].*** B-197209. September 2, 1980. 4 pp.

*Decision* re: McCaleb Associates, Inc.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** McCaleb Associates, Inc.; CH2M Hill, Inc.; Bureau of Indian Affairs.
**Authority:** Automatic Data Processing Equipment Act (40 U.S.C. 541 et seq.). Buy Indian Act (25 U.S.C. 47). 4 C.F.R. 20.2(a). 4 C.F.R. 20.2(b)(1). 4 C.F.R. 20.2(b)(2). 4 C.F.R. 20.2(c). F.P.R. 1-1.1003-3(c). F.P.R. 1-2.407-8(a)(1). F.P.R. 1-4.1001. 20 BIA Manual 2, Release 5. BIA Procurement Reg. §14H-3.215-70. B-189571 (1978). B-190752 (1978). B-193611 (1979). B-195673 (1979). B-196959 (1980).
**Abstract:** A firm protested the award of a contract issued by the Bureau of Indian Affairs (BIA) to a non-Indian firm for structural engineering services. The protester contended that the procurement was conducted and that the award was made in violation of the Buy Indian Act and BIA implementing regulations and policy procedures. The protester also claimed proposal preparation costs. A review of the record showed that the protester telephoned the procuring activity prior to the closing date for receipt of proposals and asked why the project was not advertised with Indian preference or under the Buy Indian Act. The protester then met with the contracting officer's staff; offered evidence that it was a qualified Indian-owned business; specifically asked that it be considered under the Buy Indian Act; and at the agency's request, forwarded evidence of its eligibility for Indian preference to BIA on the same day. GAO held that the protester's pre-closing date contacts with the procuring activity were timely oral protests regarding the failure of the request for proposals to prescribe a preference for Indian firms; and that the agency's receipt of proposals, without having amended the request for proposals, constituted an adverse action by the agency. Therefore, the protest to GAO more than 6 weeks after the closing date for receipt of proposals was untimely filed. Additionally, GAO held that it would not consider the protester's claim for proposal preparation costs, because to do so would circumvent the timeliness requirements of the bid protest procedures. Accordingly, the protest and claim were dismissed.

**113198**

***[Protest Challenging Future Solicitation Fairness].*** B-197897. September 2, 1980. 3 pp.

*Decision* re: Koolshade Corp.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Koolshade Corp.; General Services Administration; National Bureau of Standards.
**Authority:** B-192476 (1978). B-196760 (1980).
**Abstract:** A manufacturer of solar control devices objected to the proposed tests of energy control window film to be installed on a Federal building and to the various test conditions and procedures to be used. The protester objected to the tests because: (1) they will be performed on a single product even though a number of different types of films and external shading screens are commercially available; and (2) the test conditions and procedures will not produce generally applicable results. The protester also contended that if the test results are misinterpreted, manufacturers of energy control film will be given an unfair advantage in future procurements. GAO held that the protest was premature since it did not concern an immediate procurement but challenged the fairness of possible future solicitations. Accordingly, the protest was dismissed.

**113199**

***[Protest Concerning Military Retired Pay].*** B-189029. September 2, 1980. 13 pp.

*Decision* re: Department of Defense Military Pay and Allowance Committee Action No. 544; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Navy; Department of the Army; Department of the Air Force; United States Marine Corps; United States Coast Guard.
**Authority:** Department of Defense Appropriation Authorization Act, 1976 (P.L. 94-106; 89 Stat. 538). Uniform Retirement Date Act (5 U.S.C. 8301). 56 Comp. Gen. 740. P.L. 79-305. B-189029 (1977). 10 U.S.C. 1401a. 10 U.S.C. 3281. 10 U.S.C. 3911. 10 U.S.C. 3918. 10 U.S.C. 3961. 10 U.S.C. 3962. 10 U.S.C. 3963. 10 U.S.C. 6323. 10 U.S.C. 8281. 10 U.S.C. 8911. 10 U.S.C. 8961. 10 U.S.C. 8962. 14 U.S.C. 291. 33 U.S.C. 853-1. 42 U.S.C. 212. 42 U.S.C. 213a. 60 Stat. 26.
**Abstract:** A request was made for a decision concerning the computation of retired pay for members of the Armed Forces. Military retired pay was adjusted to reflect changes in the Consumer Price Index rather than changes in active duty pay rates under Federal law. Service members remaining on active duty after becoming eligible for retirement were receiving less retired pay upon retirement

than they would have received if they had retired earlier. An amendment was adopted to alleviate this retired pay inversion problem. The amendment was also intended to provide an alternate method of calculating retired pay or retainer pay. Questions arose with respect to the date of retirement eligibility to be used in computing military retired pay. The questions were whether: (1) the day preceding an active duty basic pay rate change should be used as the earlier day of voluntary retirement eligibility; (2) the 6-month time-in-grade requirement should be negated for all three- and four-star Army and Air Force general officers; and (3) the same aforementioned date should apply for those members eligible to retire only under a law which specifically provides for retirement on the first day of the month. GAO held that: (1) the day preceding an active duty basic pay rate change should be used as the earlier day of voluntary retirement eligibility in computing retired pay, if the resulting computation is more favorable to the member concerned; (2) when a member is retired in the grade of Lieutenant General or General, the time-in-grade restrictions do not apply in selecting an earlier more advantageous date for computing the retired pay; and (3) statutory language provides for voluntary retirements on the first day of the month which may be regarded as a surplusage, insofar as retired pay computations are concerned. This makes it possible for those officers to have their retired calculted pay in the same manner as other service members on the basis of retirement eligibility on the date immediately preceding an active duty pay rate change.

**113200**

***[Request for Reconsideration].*** B-198240. September 2, 1980. 4 pp.
*Decision* re: Andrea Radio Corp.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Andrea Radio Corp.; Department of the Army; National Radio Co., Inc.
**Authority:** B-151276 (1963). B-161012 (1967). B-176425 (1972). B-184422 (1976). B-188331 (1977).
**Abstract:** A firm requested reconsideration of a prior decision which concluded that another competitor's bid should not have been rejected. The prior decision held that the agency should not have rejected the low bid as nonresponsive for failure to insert subline item (first article testing) prices because the bid clearly indicated that such prices were included in the price of the basic item. Since no errors of fact or law in the earlier decision were shown, the previous decision was affirmed.

**113201**

***[Recredit of Sick Leave Following Congressional Employment].*** B-199794. September 2, 1980. 2 pp.
*Decision* re: Anthony J. Gabriel; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** National Aeronautics and Space Administration; General Accounting Office.
**Congressional Relevance:** *House* Committee on Appropriations.
**Authority:** Annual and Sick Leave Act (5 U.S.C. 6301 et seq.). 5 C.F.R. 630.502. 31 Comp. Gen. 485. 54 Comp. Gen. 47. 5 U.S.C. 2105. 5 U.S.C. 6311. 5 U.S.C. 8331(1).
**Abstract:** A request was made concerning the entitlement of a National Aeronautics and Space Administration (NASA) employee to recredit of sick leave earned prior to a period of congressional employment. The question presented was whether congressional employment constitutes a break in Federal service for the purposes of the regulations governing recredit of unused sick leave. The NASA employee was formerly employed by GAO in a position covered by Federal law. Prior to his resignation, he had accrued 1,808 hours of sick leave. The NASA employee was then employed by the House Appropriations Committee. The employee's sick leave was not transferred or made available for his use while he was employed by the Committee, since the Committee does not have a sick leave system and such congressional employment is not covered by Federal law. GAO held that the fact that an employee does not accrue leave in a position is not determinitive of his entitlement to later recredit of prior accrued sick leave. Although the congressional employment is not subject to the statutory leave system, such employment is Federal service. Therefore, GAO concluded that congressional employment did not constitute a break in service. Accordingly, since the NASA employee had not undergone a break in service, his sick leave should be recredited by NASA under Federal regulations.

**113202**

***The Office of Science and Technology Policy: Adaptation to a President's Operating Style May Conflict With Congressionally Mandated Assignments.*** PAD-80-79; B-199498. September 3, 1980. 28 pp. plus 5 appendices (26 pp.).
*Report* to Sen. Adlai E. Stevenson, Chairman, Senate Committee on Commerce, Science and Transportation: Science, Technology and Space Subcommittee; by Elmer B. Staats, Comptroller General.

**Issue Area:** Science and Technology: Improving Decisionmaking for Science and Technology Resources (2011).
**Contact:** Program Analysis Division.
**Budget Function:** General Science, Space, and Technology: General Science and Basic Research (0251).
**Organization Concerned:** Office of Science and Technology Policy; National Science Foundation.
**Congressional Relevance:** *Senate* Committee on Commerce, Science, and Transportation: Science, Technology, and Space Subcommittee; *Sen.* Adlai E. Stevenson.
**Authority:** National Science and Technology Policy, Organization, and Priorities Act of 1976 (P.L. 94-282). Executive Order 12039.
**Abstract:** GAO studied the Office of Science and Technology Policy (OSTP) to examine the extent to which OSTP has studied the 13 issues on Federal organization and management of science and technology policy, and to determine the extent to which OSTP is involved in strategic planning for science and technology. Top officials of OSTP believe that the broad legislative mandate for OSTP cannot be fully met under present conditions and operating styles within the Executive Office of the President. OSTP management and staff also believe that all their work must be tied to the existing policymaking process in the Executive Office of the President, because they have no independent control over any portion of the U.S. policymaking system. OSTP interprets its environment as requiring it to be continually active in initiating its own work and then fostering implementation of its recommendations, many of which demonstrate a strategic perspective. OSTP is most active in its extensive collaboration with the Office of Management and Budget in the research and development budget process. ***Findings/Conclusions:*** GAO found that OSTP does not intend to prepare the mandated comprehensive survey report. This assignment to OSTP placed a large burden on OSTP and significantly increased its responsibilities without increasing its resources. The small and active OSTP has produced no comprehensive report but a list of its many activities, categorized according to the 13 issue areas. The OSTP staff attempts to give a strategic perspective to considerations of topical or mission issues, such as energy and space. OSTP believes that it is not feasible to do more comprehensive strategic planning and remain effective in the Executive Office of the President. It seldom studies the relationships of issues in the whole context of science and technology in society; instead, it usually focuses on a particular mission issue in isolation from its interactions with other national concerns. The small size of OSTP

and its perceptions of the operating style of the President and the President's senior advisors inhibit its further involvement in comprehensive strategic planning. GAO believes that, within existing constraints, OSTP can establish a systematic and formal mechanism for identifying long-range emerging issues and for providing a detached perspective in screening outside proposals for the OSTP agenda. Both OSTP and the National Science Foundation are taking steps to improve communication in planning and preparing the Annual Report and the Five-Year Outlook. ***Recommendation To Agencies:*** The Director of OSTP should prepare the comprehensive report originally mandated by Title III of Public Law 94-282 or suggest legislation for Congress to relieve OSTP of this mandate. It should establish some formal mechanism for providing a detached view of issues for its agenda. The mechanism should help OSTP identify emerging issues, screen the many external suggestions for OSTP work, examine interrelationships among issues, and suggest priorities. It should take greater initiative in selecting issues for the Annual Report and the Five-Year Outlook.

**113203**

***[Protests Against Termination Negotiations].*** B-198851. September 3, 1980. 4 pp.

*Decision* re: Paul F. Pugh and Associated Engineers; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Paul F. Pugh and Associated Engineers; General Services Administration.
**Authority:** F.P.R. 1-4.1004(a). F.P.R. 1-16.901-254. B-183355 (1975). B-195503 (1979). 40 U.S.C. 541 et seq..
**Abstract:** A firm protested the termination of negotiations for an architect-engineer contract. The firm had been selected as the firm most qualified, when the agency discovered that the firm did not accurately report the size of its staff. The agency rescinded the selection, and negotiations were terminated. The firm contended that it had the required staff available and that the advertisement for the contract did not indicate that a full-time staff would be required. The firm had stated that a total staff of 14 would be available for the project. An agency auditor's visit to the firm discovered that only 5 people were employed by the firm from January through April 1979, and that the firm had no payroll thereafter. The agency contended that the selection official properly disregarded the recommendation of the evaluation board when the information on which the selection recommendation was based proved to be inaccurate. The firm contended that, although it did not have the staff employed, it did have a qualified staff available on an as needed basis. The firm stated that the small size of the projects would require no more than two engineers, and additional part-time employees and professional assistance could be obtained on a contract basis. GAO did not feel that an agency must continue a procurement after it discovers the information upon which the selection was based is inaccurate. Since the selection official is not obligated to follow the recommendation of the solicitation board, his decision to change the ranking of the firm under these circumstances did not seem to be arbitrary. There was no need for considering the firm's request for compensation for loss of fee and for damages. The protest was denied.

**113204**

***[Protest Against Bid Exclusion From the Competitive Range].*** B-198614. September 3, 1980. 6 pp.

*Decision* re: Decilog, Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Federal Aviation Administration; Decilog, Inc.
**Authority:** B-187160 (1977). B-188472 (1977). B-189172 (1977). B-190143 (1978). B-194157 (1980).
**Abstract:** A firm protested the exclusion of its bid proposal for Helicopter Operations Development Program technical support from the competitive range. The request for proposals prescribed three evaluation factors: technical, business management, and cost. Technical considerations were to be paramount. The firm's proposal ranked last among four proposals and was considered technically unacceptable. The proposal's deficiencies reflected an inadequate understanding of the solicitation and a lack of technical qualification to perform satisfactorily as a support contractor. The agency considered the deficiencies to be so significant that a major effort would be required to remove the weaknesses. The firm alleged that the deficiencies were minor and correctable and that its proposal should have been included in the competitive range. The determination of whether a proposal is within the competitive range, particularly with respect to technical considerations, is primarily a matter of administrative discretion. GAO cannot conclude that the agency's evaluation was unreasonable. Unlike the protester, the other offerors apparently had no difficulty discerning from the request for proposals the significant matters that were required to be discussed in detail. The proposal could not have been corrected without substantial revision since the firm failed to translate its knowledge and capabilities into the initial proposal. The protester alleged that the agency applied evaluation criteria different from those of the request for proposals. GAO found no factual basis for this allegation. Allegations that the request for proposal specifications were incomplete were judged untimely since the method of evaluation was readily apparent on the request for proposals, and allegations of solicitation improprieties must be filed before the closing date for receipt of initial proposals. The protest was denied in part and dismissed in part.

**113205**

***[Protest Against Bid Rejection].*** B-199964. September 3, 1980. 2 pp.

*Decision* re: Racon, Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Transportation Law.
**Organization Concerned:** Racon, Inc.; General Services Administration.
**Authority:** B-193953 (1979). B-194698 (1979). B-197457 (1980).
**Abstract:** A firm protested the rejection of its bid as late, alleging that the late delivery was due to Government mishandling. The protester asserted that it was not responsible for the delayed delivery. According to Postal Service records, the offer was sent by express mail and arrived in Washington, D.C., the day before the closing date for receipt of the offers. An unsuccessful delivery was attempted to the agency at that time, but the building was closed for the day. Delivery was not attempted the next day, a Friday and the closing date for receipt of the offers. Instead, the offer was delivered the following Monday. GAO believed that the agency's rejection of the offer was proper. The fact that the offer was sent by express mail which guaranteed delivery the next day did not relieve the protester of its obligation to assure the timely arrival of its offer. The solicitation provided that a late bid would be considered if it was sent by mail, and it was determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation. The Postal Service's failure to timely deliver the offer did not constitute mishandling at the Government installation. Accordingly, the protest was summarily denied.

**113206**

***[Overtime Compensation for Surveillance Activity].*** B-196563. September 3, 1980. 4 pp.

*Decision* re: Customs Special Agents; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** United States Customs Service: Office of Human Resources.
**Authority:** 52 Comp. Gen. 319. 59 Comp. Gen. 101. B-196276 (1980). B-191512 (1978). B-196550 (1980). 5 U.S.C. 5545. 5 U.S.C. 5545(c)(2).
**Abstract:** An agency requested a decision as to whether three special agents were entitled to additional overtime compensation for regularly scheduled overtime in addition to their annual premium pay for administratively uncontrollable overtime. In deciding this question, GAO was asked to consider whether scheduled overtime must occur within the same time period on successive days. After deciding to conduct a 4-day surveillance operation, the office to which the special agents were assigned established and provided the agents with a work schedule which was subsequently revised prior to the commencement of the surveillance operation. The schedule was amended again once the surveillance was underway. During the period in which the overtime was worked, the agents were being compensated for administrative uncontrollable overtime pursuant to the law. The law provides that special agents may receive additional overtime compensation only if it is determined that the overtime work was regularly scheduled. The test for regularly scheduled overtime is that the overtime must recur so frequently and at such regular intervals as to fall into a predictable and discernible pattern. In this case, the overtime was clearly authorized in advance, and an attempt was made to schedule individual assignments in advance to recur on successive days. However, the schedules actually worked were very irregular, and the time intervals of the overtime were not predictable, nor did they establish a discernible pattern. GAO concluded that the overtime was not regularly scheduled within the meaning of the law, and the special agents were not entitled to the additional compensation. Concerning the recurring nature of regularly scheduled overtime, it was pointed out that it is not mandatory that scheduled overtime occur within the same time period on successive days for it to be considered as regularly scheduled overtime.

**113207**
***[Contract Award Protest].*** B-198605. September 3, 1980. 4 pp.
*Decision* re: American Vault Co., Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: General Government Matters.
**Organization Concerned:** Veterans Administration; American Vault Co., Inc.; Concrete Products Corp.
**Authority:** 55 Comp. Gen. 656. B-193405 (1979). B-192307 (1978).
**Abstract:** A firm protested the award of a Veterans Administration (VA) contract to the incumbent contractor for grave liner covers for a National Cemetery. The invitation for bids (IFB) solicited bids for grave liners with and without covers. The protester was the low bidder for grave liners with covers. The awardee was the low bidder for grave liners without covers. Subsequent to the award of the grave liner contract, VA found that the use of grave liners without covers created problems because soil conditions were not as VA had anticipated. Rather than terminate the contract, VA decided to procure covers for the grave liners through a competitive procurement, where the incumbent was the low bidder. The protester alleged that the awardee had an unfair competitive advantage in bidding on the cover contract because, as the incumbent on the grave liner contract, the awardee knew what the protester had bid for grave liners with covers. GAO will review the validity of the award procedure where the question of contract termination is dependent upon whether there was an impropriety in the award process. The award was found to be proper, since it was in accord with the IFB award provision, and the problem with the soil conditions was not known at the time of the award. Thus, there was no requirement that VA terminate the contract for convenience. Moreover, GAO has recognized that a bidder may enjoy a competitive advantage by virtue of its incumbency or its own particular circumstances. Therefore, the protest was denied.

**113208**
***[Protest Against Contracting Officer's Decision].*** B-199242. September 3, 1980. 2 pp.
*Decision* re: Park Poly Bag Corp.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Park Poly Bag Corp.; General Services Administration.
**Authority:** 4 C.F.R. 20.1(a). 41 C.F.R. 5-1.605(c)(3). F.P.R. 1-1.605-1(a)(1)(i). 45 Fed. Reg. 15549. B-189516 (1977).
**Abstract:** A firm protested a contracting officer's decision not to delay the award of a General Services Administration's (GSA) contract for plastic bags while the protester appealed its suspension from future contracting and subcontracting with GSA. The protester was suspended from future contracting and subcontracting due to a criminal indictment handed down by the court. Although the protester appealed the suspension, the contracting officer refused to delay the contract award. GAO held that the protest was academic since the court upheld the protester's suspension. Moreover, under bid protest procedures, the protester could not protest the award since a suspended firm or individual is not an interested party and is ineligible for the agency's contracts during the period of suspension. Accordingly, the protest was dismissed.

**113209**
***[Protest Against Contract Award].*** B-198674. September 3, 1980. 8 pp.
*Decision* re: Wismer and Becker Contracting Engineers; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Wismer and Becker Contracting Engineers; Dade County, FL; Computer Sciences Corp.; Urban Mass Transportation Administration.
**Authority:** 39 Comp. Gen. 653. 45 Comp. Gen. 800. B-190467 (1978). B-194662 (1979).
**Abstract:** A firm protested the award of a contract for a communication system associated with Dade County's rapid transit system. The contract was awarded pursuant to a grant administered by the Urban Mass Transit Administration (UMTA), and the project was 80 percent funded by UMTA. The protester contended that: (1) the awardee's bid with respect to item 13 of the invitation for bids (IFB) was ambiguous; (2) the awardee's verification of item 13 rendered the bid nonresponsive; (3) the awardee's bid with respect to item 14 of the IFB was ambiguous and nonresponsive and verification of this item was not requested; and (4) the awardee's price was unreasonably low and evidenced a mistake. The record showed that the bid form for item 13 pricing information included a line for the insertion of total price. This forced bidders to: (1) either omit subitem unit prices or subitem total prices, or (2) alter the bid form to provide both prices. GAO held that the awardee's bid for the contract was not ambiguous or nonresponsive, since the only reasonable interpretation was that the awardee provided subitem total prices. This was true because the subitem total prices add exactly to the total price of item 13. Additionally, GAO held that the awardee's verification of its bid did not render the bid ambiguous or nonresponsive, since verification of an initial bid was unnecessary and the verification confirmed the awardee's intent to base its bid on subitem total prices. Further, GAO held that: (1) the argument

regarding the ambiguity of item 14 based on the spacing between numbers and the mark on the awardee's bid which could be a comma was without merit; and (2) a verification request was unnecessary since engineering consultants indicated that the awardee's price was reasonable, and the awardee has not suggested that there was an error it its bid. Accordingly, the protest was denied.

**113210**

***[Propriety of Agreement].*** B-194983. September 3, 1980. 4 pp.
*Decision* re: Government Indemnification of Public Utilities Against Loss Arising Out of Sale of Power to Government; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: General Government Matters.
**Organization Concerned:** General Services Administration.
**Authority:** Antideficiency Act. Property and Administrative Services Act. Tort Claims Act. 7 Comp. Gen. 507. 16 Comp. Gen. 803. 35 Comp. Gen. 85. 54 Comp. Gen. 824. California-Pacific Utilities Co. v. United States, 114 Ct. Cl. 703 (1971). Paul v. United States, 371 U.S. 245 (1963). Public Utilities Commission of California v. United States, 355 U.S. 534 (1958). United States v. Georgia Public Service Commission, 371 U.S. 285 (1963). 31 U.S.C. 665(a). 41 U.S.C. 11.
**Abstract:** The General Services Administration (GSA) requested a decision concerning the propriety of agreement by GSA to certain indemnity provisions in contracts and tariffs procuring public utility services for Government agencies and establishments. In response to the request, GAO held that GSA has the authority to procure power for the Government under tariffs. Additionally, since GAO has not objected in the past to the procurement of power by GSA under tariffs containing the indemnity clause, GAO could see no reason to object to the purchase of power under the present contracts containing essentially the same indemnity clause. In any event, GAO felt that little purpose would be served by establishing a rule which prevents the United States from procuring a vital commodity under the same tariff restrictions that other customers are subjected to, if the utility insists that the restrictions are nonnegotiable. However, because the possibility exists that the agreements could result in future liability in excess of available appropriations, GAO believes that GSA should inform Congress of the situation.

**113211**

***[Review of Audit Action].*** B-197913. September 2, 1980. 5 pp.
*Decision* re: American Farm Lines, Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Transportation Law.
**Organization Concerned:** American Farm Lines, Inc.; General Services Administration
**Authority:** 37 Comp. Gen. 753. 51 Comp. Gen. 724. 55 Comp. Gen. 1077. Telischak Trucking, Inc. v. White Brothers Trucking Co., 77 M.C.C. 672 (1958). Pillsbury Flour Mills Co. v. Great Northern Railway, 25 F.2d 66 (8th Cir. 1928).
**Abstract:** A freight line requested a review of an audit action taken by the General Services Administration (GSA) in connection with two Government bills of lading. Amounts were deducted from monies otherwise due the firm to recover overcharges collected by the carrier for the transportation of two truckloads of containers. The agency stated that the charges collected by the firm were derived from the class 50 truckload rating and its minimum weight restriction. The agency issued notices of overcharge based on the applicability of lower commodity rates. The parties agreed that the containers were not transported in a filled condition. The firm contended that the agency used rates applicable to commodities such as ambulances, buses, cranes, and electric generators. The agency contended that the containers required specialized handling because of size or weight. There was no evidence that any of the containers shipped required specialized handling because of size or weight. As contended by the firm, the description of the containers contained several conditions for the application of the rates they used. It was apparent that the firm had no intention of offering lower rates for transportation of empty containers. In view of the firm's obvious intention to offer lower rates only for containers tendered under limited circumstances and the fact that the containers were not so shipped, the legal questions raised by the agency of whether the containers, because of their size or weight, would require specialized handling was irrelevant. The GSA settlement action was incorrect, and refund of the amounts deducted should be made to the firm.

**113212**

***[Request for Reconsideration].*** B-199392.2. September 2, 1980. 2 pp.
*Decision* re: American Electronics Laboratories, Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** American Electronics Laboratories, Inc.; Department of the Army.
**Authority:** Small Business Act (P.L. 95-507; 92 Stat. 1761). 4 C.F.R. 20.9. 59 Comp. Gen. 122. B-199392 (1980).
**Abstract:** A firm requested reconsideration of a previous decision which dismissed its protest of the Army's setting aside a procurement under section 8(a) of the Small Business Act. The firm complained that the procurement was too technically complex for a small business and that the particular firm which would receive the subcontract was not competent to perform the work. Determination of these matters is the exclusive province of the Small Business Administration. GAO will review Small Business set-aside decisions only if there has been a showing of bad faith or fraud on the part of Government officials. GAO found nothing in the firm's request for reconsideration that had not been previously considered. The decision dismissing the protest was affirmed.

**113213**

***[Request for an Advance Decision].*** B-148581, B-189651, B-190650. September 3, 1980. 3 pp.
*Decision* re: Department of the Army; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Department of the Army; Department of Defense: Army and Air Force Exchange Service; Department of the Army: Sacramento Army Depot, CA.
**Authority:** 58 Comp. Gen. 94. B-187369 (1977).
**Abstract:** A Director of Procurement requested an advanced decision as to the propriety of purchasing certain items from the Army and Air Force Exchange Service (AAFES), a nonappropriated fund instrumentality. The AAFES is capable of supplying through its regular supply channels health and comfort items for kits which are distributed to Korean soldiers attached to the Army. The items are assembled into kits in Korea. The Director stated that AAFES would be an ideal source of supply because of its ability to buy in large quantities and its established transportation and warehouse system in Korea. He proposed to initiate a Basic Ordering Agreement with AAFES. The Army would continue to assemble the individual items into kits. GAO has held that obtaining goods and services from a nonappropriated fund instrumentality is tantamount to obtaining them from non-Governmental, commercial sources. GAO did not believe a sole-source procurement could be justified under the facts presented. Other sources can supply, and are presently supplying, these items. The fact that a particular

concern may be able to perform a contract with greater ease or at less cost than any other concern does not justify a noncompetitive procurement to the exclusion of others. The Director's explanation was an inadequate basis for a procurement of the items from AAFES.

**113214**

***[Protest of SBA Refusal To Issue COC].*** B-199017. September 3, 1980. 2 pp.

*Decision* re: Tamsco, Inc.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Transportation Law.
**Organization Concerned:** Tamsco, Inc.; Small Business Administration; Department of the Army.
**Authority:** Small Business Act (15 U.S.C. 631 et seq.). 13 C.F.R. 125.5(e). B-192906.2 (1979). B-193664 (1979). 15 U.S.C. 637(b)(7).
**Abstract:** A firm protested the refusal by the Small Business Administration (SBA) to issue it a Certificate of Competency. The Army had found the firm to be nonresponsible on the basis of a preaward survey which indicated that the firm did not have adequate control over the inspection requirement. The matter was referred to the SBA for a Certificate of Competency consideration. The SBA denied the Certificate of Competency because, in their view, the firm could not meet the delivery requirement; and to be eligible for a Certificate of Competency, a small business must perform a significant portion of the contract with its own facilities and personnel. The firm contended that it could meet the delivery requirement and that the SBA eligibility requirement established improper limitations on the congressional direction that the Federal Government further the interests of small business concerns. SBA has the authority to conclusively certify all elements of a small business firm's responsibility. GAO does not review a Certificate of Competency denial absent a showing of fraud or bad faith. No such showing was made here. The protest was dismissed.

**113215**

***[Protest Alleging Improper RFP].*** B-199946. September 4, 1980. 2 pp.

*Decision* re: Chama Corp.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Chama Corp.; Department of Labor: Job Corps: Arizona Job Corps Center, Phoenix, AZ.
**Authority:** 4 C.F.R. 20. 4 C.F.R. 20.2(b)(1).
**Abstract:** A firm protested the impending award of a contract by a Job Corps Center for the acquisition of computer hardware. The successful offeror would be required to train selected personnel in the operation of certain proprietary software written by another vendor. The firm contended that this requirement would ensure a sole-source award to the writer of the software. The protest was filed after the due date for initial proposals; thus, it was untimely filed and dismissed.

**113216**

***[Provisions of the Social Security Amendments of 1977].*** B-199374. September 2, 1980. 3 pp.

*Letter* to E. Marshall, Jr., Director, Veterans and Retired Affairs, Air Force Sergeants Association; by David F. Engstrom (for Edwin J. Monsma, Assistant General Counsel), GAO Office of the General Counsel.

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Air Force Sergeants Association.
**Authority:** Social Security Amendments of 1977 (P.L. 95-216; 91 Stat. 1509 ; 91 Stat. 1544). Social Security Act. B-196569 (1980). 42 U.S.C. 405(h). 42 U.S.C. 402(e)(8)(A). 10 U.S.C. 1451.

**113217**

***[Elias Emiliano v. United States].*** B-200029(DAS). September 2, 1980. 1 p.

*Letter* to Alice Daniel, Assistant Attorney General, Department of Justice: Civil Division; by Daniel A. Schwimer, Attorney-Adviser, GAO Office of the General Counsel.

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** Department of Justice: Civil Division; United States Court of Claims.
**Authority:** Emiliano v. United States, Ct. Cl. No. 409-80C (1980).

**113218**

***[Jane Idoine v. United States].*** B-199940(JAB). September 2, 1980. 1 p.

*Letter* to Alice Daniel, Assistant Attorney General, Department of Justice: Civil Division; by Jessica A. Bostford, Attorney-Adviser, GAO Office of the General Counsel.

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** Department of Justice: Civil Division; United States Court of Claims.
**Authority:** Idoine v. United States, Ct. Cl. No. 403-80C (1980).

**113219**

***[Nancy Lee Presson v. United States].*** B-199872. August 29, 1980. 2 pp.

*Letter* to Alice Daniel, Assistant Attorney General, Department of Justice: Civil Division; by Marla E. Diamond, Attorney-Adviser, GAO Office of the General Counsel.

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of Justice: Civil Division; United States Court of Claims.
**Authority:** Finn v. United States, 548 F.2d 340 (Ct. Cl. 1977). Clark v. United States, 461 F.2d 781 (Ct. Cl. 1972). 28 U.S.C. 1491. 61 U.S.C. 10.

**113220**

***[Bobby W. Adkins, et al. v. United States].*** B-197381. August 29, 1980. 2 pp.

*Letter* to Alice Daniel, Assistant Attorney General, Department of Justice: Civil Division; by David Agazarian, Attorney-Adviser, GAO Office of the General Counsel.

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of Justice: Civil Division; Department of the Air Force: Aerospace and Meteorology Center, Newark, OH; American Federation of Government Employees.
**Authority:** Adkins v. United States, Ct. Cl. No. 363-80C (1980).

**113221**

***Areas Needing Improvement in the Adult Expanded Food and Nutrition Education Program.*** CED-80-138; B-199881. September 4, 1980. 9 pp. plus 4 appendices (41 pp.).

*Report* to Bob S. Bergland, Secretary, Department of Agriculture; by Baltas E. Birkle (for Henry Eschwege, Director), GAO Community and Economic Development Division.

**Issue Area:** Food: Federal Good Nutrition Standards (1708).
**Contact:** Community and Economic Development Division.
**Budget Function:** Agriculture: Agricultural Research and Services (0352); Health: Health Research and Education (0552).

**Organization Concerned:** Department of Agriculture.
**Congressional Relevance:** *House* Committee on Agriculture: Domestic Marketing, Consumer Relations, and Nutrition Subcommittee.
**Authority:** Food and Agriculture Act of 1977 (91 Stat. 973).
**Abstract:** GAO made a limited assessment of the Adult Expanded Food and Nutrition Education Program (EFNEP). In April 1980, GAO testified before the subcommittee on overall program operations and on program activities. EFNEP has the potential for improving and maintaining people's health through better diets and for saving money through knowledgeable food purchases. ***Findings/Conclusions:*** EFNEP program managers need to consider alternative ways to reach and educate more target families with less funds and personnel. One-to-one communication is the EFNEP basic approach to recruiting and instructing homemakers; however, this approach is costly and limits the number of families that can be reached. Continuing attention to and encouragement of efforts by EFNEP managers is needed in developing and adopting alternative communication and dissemination methods to reach more people with available resources. EFNEP does not have specific standards and effective evaluation and feedback tools to measure its success. Data are not gathered and compiled on changes in the participants' knowledge or behavior regarding food buying, preparation, and care. Reviews by the Department and others have given little insight into program effectiveness. Program administration varied in the States and at the sites reviewed. Those sites with closer supervision had better records to support and assess their activities. At other sites, records were so poorly maintained that the data's unreliability precluded any meaningful assessment of the program. Most aides lacked a high school education and while able to develop a rapport with homemakers, they could not cope with the program's administrative demands. Controls to ensure aides' attendance or performance were sometimes lax and informal. Some aides had excessive caseloads. The program's management information system does not provide adequate information on program operations. Funds are not well managed. ***Recommendation To Agencies:*** The Secretary of the Department of Agriculture should instruct the Director of Science and Education to encourage State and local EFNEP officials to develop and test various innovative methods for reaching more families within the constraints of available resources. He should evaluate the methods that are developed and disseminate to all EFNEP officials information on those found to be feasible and effective. He should develop objective and measurable standards for judging program effectiveness and the evaluation and feedback tools needed to measure program performance against such standards. The Director should provide additional guidance and training to State and local program officials on supervisory and recordkeeping requirements and responsibilities. He should develop specific criteria for State program officials to use in selecting program sites and allocating funds among the sites, encourage increased State and local EFNEP coordination with other nutrition-related programs for reaching more families, and ensure adequate evaluations of the 16 pilot projects which are exploring ways of increasing food stamp families' participation in EFNP.

**113222**

***Air Force C-130 Contract Price Is Overstated and Proper Action Has Not Been Taken To Improve Lockheed's Cost Accounting and Estimating Systems.*** PSAD-80-69; B-198948. September 4, 1980. 3 pp. plus 2 appendices (24 pp.).
*Report* to Secretary Harold Brown, Department of Defense; by Walton H. Sheley, Jr., Acting Director, GAO Procurement and Systems Acquisition Division.

**Issue Area:** General Procurement: Prices Negotiated in the Absence of Competition (1922).
**Contact:** Procurement and Systems Acquisition Division.
**Budget Function:** National Defense: Department of Defense - Procurement & Contracts (0058).
**Organization Concerned:** Department of Defense; Department of the Air Force; Department of the Air Force: Air National Guard; Lockheed-Georgia Co.; Defense Contract Audit Agency.
**Authority:** P.L. 87-653.
**Abstract:** GAO reviewed the pricing of the Air Force contract awarded to the Lockheed Georgia Company in 1978. The contract, for eight C-130 Hercules airplanes and technical data for the Air National Guard, was negotiated at a firm-fixed price. It was selected as part of a nationwide review of the pricing of noncompetitive prime contracts awarded by the Department of Defense. The objectives were to determine: (1) if laws, regulations, and procedures were followed in negotiating the contract price; and (2) whether the contract price is reasonable in relation to the cost or pricing data available to the contractor at the time of contract negotiations. ***Findings/Conclusions:*** GAO found that the negotiated contract price was overstated by more than $4 million because proposed costs for production material were not based on current, complete, and accurate cost or pricing data and because the most representative experience available did not support proposed costs for production labor and development labor. Proposed labor costs were overstated by as much as $2,949,699 because the most representative experience available supported, significantly, lower manufacturing labor costs. Also, it was found that the Air Force Plant Representative Office (AFPRO) had not adequately responded to the Defense Contract Audit Agency's reports of weaknesses in Lockheed's accounting and estimating systems. ***Recommendation To Agencies:*** The Secretary of Defense should direct the contracting officer to consider the information presented and take appropriate action to reduce the contract price. The Secretary should emphasize to the contracting officer the importance of obtaining, reviewing, and using cost and pricing data in negotiating noncompetitive contract prices. Finally, the Secretary should determine that the actions of AFPRO are adequate to protect the Government's interest in negotiating future contracts with Lockheed.

**113223**

***[DOD's Management of Automatic and General Purpose Electronic Test Equipment].*** LCD-80-106; B-199353. September 4, 1980. 7 pp.
*Report* to Harold Brown, Secretary, Department of Defense; by Richard W. Gutmann, Director, GAO Logistics and Communications Division.

**Issue Area:** Logistics Management: Improvements in Equipment Utilization (3807).
**Contact:** Logistics and Communications Division.
**Budget Function:** National Defense: Department of Defense - Military (except procurement and contracts) (0051).
**Organization Concerned:** Department of Defense; Department of the Air Force; Department of the Navy; Department of the Navy: Naval Electronic Systems Command.
**Abstract:** A survey was conducted to evaluate the Department of Defense's (DOD) policies and procedures for authorizing, acquiring, selecting, and using automatic and general purpose electronic test equipment and to determine the magnitude of test equipment problems previously identified. ***Findings/Conclusions:*** The Air Force and the Navy are the largest users of automatic testing, and have about $15 billion invested in current automatic test equipment inventories. The Navy has recognized its opportunities to improve its visibility over and use of general purpose electronic test equipment and has taken action to better redistribute equipment to meet the needs of fleet activities. It has also taken steps to establish a centralized system to provide visibility over all general purpose electronic test equipment inventory estimated at over $1 billion. A system is being developed by the Naval Electronic Systems

Command to identify general purpose electronic test equipment shortages and overages among commands. The system is expected to be complete in about 3 years. Currently, the Command has data available from air and sea activities to identify overages in one command to fill shortages in other commands, but does not have authority to direct intercommand transfers of equipment. ***Recommendation To Agencies:*** The Secretary of Defense should direct the Navy to eliminate the obstacles that currently inhibit the redistribution of excess general purpose electronic test equipment among using commands. The Secretary should also direct the Navy to require the Naval Electronic Systems Command to certify that all available general purpose electronic test equipment has been screened for availability and redistribution before purchasing new equipment.

**113224**

***Natural Gas Incremental Pricing: A Complex Program With Uncertain Results and Impacts.*** EMD-80-96; B-199949. September 4, 1980. 33 pp. plus 1 appendix (11 pp.).

*Report* to Congress; by John D. Heller, Acting Comptroller General.

**Issue Area:** Energy (1600); Energy: Effect of Federal Financial Incentives, Tax Policies, and Regulatory Policies on Energy Supply (1610).

**Contact:** Energy and Minerals Division.

**Budget Function:** Energy (0270); Energy: Energy Information, Policy, and Regulation (0276).

**Organization Concerned:** Department of Energy; Federal Energy Regulatory Commission; Energy Information Administration.

**Congressional Relevance:** Congress.

**Authority:** Natural Gas Policy Act of 1978 (P.L. 95-621).

**Abstract:** Legislation requires the Federal Energy Commission (FERC) to implement an incremental pricing program under which designated industrial users of natural gas pay a surcharge for the gas they buy. The purpose of the surcharge is to transfer the higher deregulated prices of natural gas to industrial users, so they will pressure their suppliers to obtain natural gas at the lowest possible cost. ***Findings/Conclusions:*** FERC has responsibly handled the task of preparing regulations for the program's operation. Numerous opportunities have been provided for those affected by the legislation to discuss problem areas and present supporting documentation; proposed actions were changed where evidence indicated the original proposal was deficient. However, problems exist which can impede the implementation of incremental pricing and preclude a meaningful evaluation of whether the program accomplishes its intended purpose. During the time regulations were being written, much of the data FERC needed to assess the impact of different incremental pricing options was not available. This hindered FERC in making assessments of expected results of various courses of action and delayed the implementation of the three-tier pricing system. Data deficiencies also affected FERC action in areas involving agricultural exemptions and direct sales by interstate pipelines to industrial users. Cost information, needed to assess the administrative costs of the program and to plan procedures for evaluating program benefits and drawbacks, is lacking. Monitoring procedures have not been established. Therefore, GAO believed FERC will be hampered in its efforts to evaluate the program and to provide Congress with an assessment of whether the program is accomplishing its objectives. One area requiring monitoring concerns the relationship of Federal regulatory requirements with State and local requirements. ***Recommendation To Agencies:*** The Chairman, FERC, should work with the Administrator, Energy Information Administration, to develop, by October 1981, an information system incorporating key data elements that will enable FERC to: (1) make analyses which are necessary for recommending to Congress whether to continue, revise, or terminate the incremental pricing program; and (2) evaluate both the positive and negative aspects of the program's operation. As part of this effort, the Chairman should: insure that the information system provides data to substantiate that the designated alternate fuels provide the necessary balance of transferring the greatest amount of incremental costs to industrial users without causing them to switch to an alternate fuel; initiate action to incorporate data into the FERC information system to support determinations that alternate fuels for agricultural uses are reasonably available and economically practicable and that direct sales by interstate pipelines will not adversely affect the incremental pricing program; require that costs of implementing, operating, and monitoring the incremental pricing program be identified and compiled; work with State regulatory agencies to insure, to the extent possible, that State incremental pricing programs are consistent with the objectives of the legislation; and report results of the program monitoring effort to cognizant congressional committees at the time amended regulations are proposed for extending incremental pricing beyond industrial boiler fuel use.

**113225**

***[Protest of Marine Corps RFP].*** B-197859. September 4, 1980. 3 pp.

*Decision* re: U.S. Financial Services, Inc.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law II.

**Organization Concerned:** United States Marine Corps; U.S. Financial Services, Inc.

**Authority:** 4 C.F.R. 20.2(b)(2). 4 C.F.R. 20.2(c). B-195673 (1979). B-191013 (1980). B-196359 (1980). B-197946 (1980).

**Abstract:** A firm protested what it viewed as an attempt by the U.S. Marine Corps to improperly restrict competition as evidenced by an amendment to its request for proposals. The amendment required benchmarking to establish compatibility with host computer systems. The Marine Corps stated that the amendment was necessary to assure that the required capability could be provided. The protester argued that its equipment had been commercially available for years and has been successfully installed elsewhere. As the amendment was issued after receipt of initial proposals, the protester viewed the amendment and attendant benchmarking expense as imposing an undue financial burden on it as a small business. Unwilling to undertake the expense, the protester refused to conduct the benchmark and, instead, asked the Marine Corps to waive the requirement. The protester lodged its protest more than 10 working days after being told during a briefing that its proposal was rejected because it had failed to perform the benchmark. It was required to file a protest with GAO or the Marine Corps within 10 working days after the initial debriefing. The need for the benchmark requirement is not a question of general interest to the procurement community which has not been considered previously and, therefore, does not fall under the significant issue exception to timeliness requirements. The protest was dismissed as untimely.

**113226**

***[Request by German Government for Reimbursement of Fire Insurance Premiums].*** B-196982. September 4, 1980. 4 pp.

*Decision* re: German Government's Claim for Reimbursement of Fire Insurance Premiums; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: General Government Matters.

**Organization Concerned:** Department of the Air Force; Federal Republic of Germany.

**Authority:** Shepherd v. Thompson, 122 U.S. 231 (1887). Ginn v. State Farm Mutual Auto Insurance Co., 417 F.2d 119 (5th Cir. 1969). B-147497 (1964). 31 U.S.C. 71a. 31 U.S.C. 236.

**Abstract:** The Department of the Air Force asked GAO to reconsider its denial of the German Government's claim for reimbursement of fire insurance premium payments. The basis of the denial was that the claim was barred by the 6-year statute of limitations applicable to claims against the United States. The claim arose out of a Supplementary Agreement to the NATO Status of Forces Agreement. The agreement provides that U.S. Forces are no exempt from costs of compulsory insurance against fire and other damages, insofar as the Federal Republic of Germany is obligated under German law to pay for such insurance. Pursuant to this agreement, the German Government submitted to the Air Force invoices for fire insurance premiums for an air base and housing area for 12 years. The Air Force paid only the portion of bill for the period which would not fall within the 6-year statute of limitations. The remainder of the claim was submitted to GAO for settlement. In denying the claim initially, the GAO Claims Division acted on the assumption that a claim for reimbursement of the insurance premiums attributable to a particular year must have been accrued in that year. The agreement provided that payment would be made after invoices had been submitted. The agreement did not specify the time for the submission of invoices, and because of the complexity of determining which buildings were covered by the agreement, invoices were not completed until 3 years after the agreement had been signed. Since the claim did not accrue until the invoices were submitted, the claim was not barred by the 6-year statute of limitations. The claim is a valid obligation of the United States, and an appropriate settlement will be issued.

**113227**

***[Protest of Specification].*** B-199359. September 5, 1980. 2 pp.
*Decision* re: General Mills, Inc.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** General Mills, Inc.; Commodity Credit Corp.
**Authority:** 4 C.F.R. 20. B-133170 (1976). B-189214 (1979). B-188961 (1978). B-193118 (1977).
**Abstract:** A company protested a Commodity Credit Corporation (CCC) specification for fortified cereal. The protester's primary concern was with the provision limiting the added sugar content of cereals to be purchased. The company protested directly to CCC when the announcement containing the specification was issued. Subsequently, CCC issued the first invitation under the announcement. The company then protested to GAO. Thereafter, the agency canceled the invitiation and took the position that the protest was moot. The protester argued that the invitation cancellation did not affect the existence of the announcement; therefore, the protest was not moot. GAO held that there was no award or proposed award pending, only a specification which may be utilized in a future procurement. The protest of a specification under the circumstances was premature and should await the issuance of a solicitation. Accordingly, the protest was dismissed.

**113228**

***[Definition of "Minorities"].*** B-198797. September 4, 1980. 4 pp.
*Letter* to Rep. Tony Coelho; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Department of Transportation; Federal Highway Administration.
**Congressional Relevance:** *Rep.* Tony Coelho.
**Authority:** Small Business Act (15 U.S.C. 637(a)). 23 C.F.R. 230. Executive Order 11625. 45 Fed. Reg. 21171. King v. Smith, 392 U.S. 309 (1968). OMB Circular A-102. 23 U.S.C. 315.
**Abstract:** GAO responded to letters questioning the definition of minorities used in assessing eligibility for participation as a minority business enterprise under contracts for the construction of the Fort McHenry highway tunnel. The tunnel project is partially funded by a grant from the Federal Highway Administration (FHWA). The letters indicated that the FHWA required that a more restrictive definition of minorities be used than would have been applicable under Maryland law. It was suggested that FHWA imposed its own definition of minorities which violates the terms of the regulations of the Office of Management and Budget (OMB). In 1975, FHWA established a minority business preference program embodying the general principles of the Executive Orders which promote minority business participation in Federal-aid highway projects. GAO believes that this Executive Order does not either mandate or require the adoption of the minority definition contained in the order, but instead establishes the principles upon which agencies may base their own minority business programs. GAO believes that the regulations issued by the FHWA are a product of an authorized exercise of judgment and discretion by FHWA in its effort to effect the national policy of promoting minority business efforts. The FHWA imposition of a more restrictive definition of minorities than that which would have been applicable under Maryland law does not conflict with OMB regulations. GAO found no basis to conclude that the failure of FHWA to defer to Maryland's minority business program was otherwise unlawful or improper.

**113229**

***[Protest Against Use of Negotiation Procedures].*** B-197444. September 4, 1980. 4 pp.
*Decision* re: Del Rio Flying Service, Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Del Rio Flying Service, Inc.; Department of the Air Force.
**Authority:** 55 Comp. Gen. 715. 57 Comp. Gen. 501. D.A.R. 1-706.5(b). D.A.R. 3-210. B-197244 (1980). B-197448 (1980). 10 U.S.C. 2304(a)(1). 10 U.S.C. 2304(a)(10).
**Abstract:** A firm protested the issuance of a request for proposals to operate a flight training and screening program, including aircraft maintenance. The firm contended that the requirement should have been formally advertised rather than negotiated. It further contended that the contracting officer improperly denied offerors an opportunity to inspect the site. The procurement was totally set aside for small business. Small business set-aside contracts may be competed by conventional negotiation or small business restricted advertising, but regulations prefer that restricted advertising be used whenever possible. The firm maintained that the program was not a complex acquisition requiring negotiation, and that the contractor had no latitude as to the form or type of training, teaching programs, or techniques. The protester further contended that the specifications clearly contained the requirements, and nothing was left to the contractor's discretion. The contracting officer justified the negotiation on the grounds that the procurement was for property and services for which it was impracticable to obtain competition. The agency needed a highly qualified contractor with the requisite management expertise and understanding of the program's requirements. It was clear that the agency was buying technical and managerial competence, not merely routine services. Under such circumstances, negotiation is authorized. The agency reported that a site inspection took place and the protester's representative started, but did not complete, the tour. The agency advised the protester that it could arrange for another inspection, but none was requested. The protest was denied.

**113230**

***[Protest of Contract Termination].*** B-200031. September 8, 1980. 1 p.

*Decision* re: Baytron Systems Corp.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law Control Group.
**Organization Concerned:** Baytron Systems Corp.; Department of the Army.
**Authority:** B-193159 (1978).
**Abstract:** A firm protested the termination for the convenience of the Government of its contract, which had been issued by the Army. The protester contended that the termination was not in the best interest of the Government. The determination as to whether a contract should be terminated for the convenience of the Government is a matter of contract administration and is not reviewed by GAO. The protest was therefore dismissed.

**113231**

***[Reimbursement for Towing Expenses].*** B-197634. September 3, 1980. 5 pp. plus 1 attachment (1 p.).
*Decision* re: Clark E. Fontaine; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** Professional Air Traffic Controllers Organization; Federal Aviation Administration.
**Authority:** Civil Service Reform Act of 1978. 55 Comp. Gen. 1197. 55 Comp. Gen. 564. Executive Order 11491. FAA Order 4665.3A. B-180010 (1976). B-190071 (1978).
**Abstract:** An air traffic controller appealed a Claims Division settlement which denied his claim for reimbursement of towing expenses. The record showed that the employee was designated to depart on a familiarization flight. He drove his privately owned vehicle to the airport, asked the controller-in-charge for permission to park his vehicle in the tower parking lot, received it, parked the car, and told the controller-in-charge how to move the car should a need arise. The vehicle was moved by a local towing company when construction work started in the parking area. The employee was on duty during the familiarization flight; but since he was not assigned duties at the outbound destination as part of the trip, he was not in an official travel status. Use of his car was not considered incident to Government service for the purpose of reimbursement. The Alaska Region Accounting division had recommended that the claim be paid because the expense was incurred through no fault of the employee. The Claims Division held that the employee could not be reimbursed because he was not using his car in the performance of official business, and the Government is not liable for any costs incurred through the personal use of a car. The Professional Air Traffic Controllers Organization, which represented the employee, contended that the employee was on official business since he had valid approval to park his vehicle in the lot. In the opinion of GAO, approval of the parking lot arrangement did not convert the use of the car to the performance of official business. An employee must bear the cost of transportation between his residence and his place of duty. Permission to use the lot did not transmute such liability to the Government. The agency spent appropriated funds for parking to avoid significant impairment of the agency's operational efficiency; but by doing so, it can not be held liable for the reasonable risks attendant to parking at the airports. The Claims Division settlement denying the claim for towing expenses was upheld.

**113232**

***[Request for Station Housing and Cost-of-Living Allowances].*** B-196603. September 4, 1980. 6 pp. plus 1 enclosure (1 p.).
*Decision* re: Sfc. Jerry D. Sims, USA; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Army.
**Authority:** 38 Comp. Gen. 531. 55 Comp. Gen. 135. 1 J.T.R. para. M4300-1. 1 J.T.R. para. M4300-3. 1 J.T.R. para. M4301-2. 1 J.T.R. para. M4304. 1 J.T.R. para. M4305. 1 J.T.R. ch. 4, part G. B-182098 (1975). 37 U.S.C. 405.
**Abstract:** A request for an advance decision was made concerning whether a member of the Army was entitled to station allowances at the with-dependents rate following his permanent change of station from the island of Oahu to Hawaii, when his dependents continued to reside in Oahu. While stationed on Oahu, he received station allowances at the with-dependent rate applicable to Oahu. He had been informed that his pay would not decrease if he accepted the assignment on Hawaii. He was entitled to move his family at Government expense to Hawaii; however, they remained on Oahu. Shortly after he moved, the Army discontinued his station allowances. The member believed that he was entitled to station allowances at the with-dependent rate since his family resided in the vicinity of his permanent duty station. The Army challenged this interpretation, pointing out that vicinity does not encompass situations involving separate areas and separate households. The Army contended that there were no restrictions to preclude him from moving his family to Hawaii at Government expense, and maintenance of the family residence on Oahu was a personal choice. GAO held that the various islands composing the State of Hawaii should be considered as the vicinity of Hawaii. Station allowances may be authorized if the dependents reside in the vicinity of the member's duty station regardless of whether separate residences are maintained. The member was entitled to station allowances at the with-dependent rate which applies to the allowance rate for Hawaii.

**113233**

***[Use of Automatic Data Processing in the Veterans Administration To Support Medical Care Facilities].*** September 4, 1980. 16 pp.
*Testimony* before the House Committee or Government Operations: Government Information and Individual Rights Subcommittee; by Walter L. Anderson, Senior Associate Director, GAO Financial and General Management Studies Division.

**Contact:** Financial and General Management Studies Division.
**Organization Concerned:** Veterans Administration.
**Authority:** F.P.R. 1-3.801-3(a).
**Abstract:** A review of the use of automatic data processing (ADP) resources throughout the Veterans Administration (VA) revealed that long-range planning is poor. ADP support to the medical centers has been decentralized, poorly coordinated, and sporadic. A future support system has begun without the planning, coordination, and user involvement needed to assure its success. While VA uses and manages data processing resources in specialized areas in its 172 medical centers, about 13 common functions have been identified at each center that could be automated. To date, automation within the VA medical centers has hinged largely on the degree of initiative of the individual medical centers. Functions already independently automated by the various medical centers must be critically examined to determine whether they can contribute to the support system currently being developed to capitalize on the existing VA investment in automated medical support. The functional interdependencies between automated systems operated by other VA departments must also be investigated. At the close of fiscal year 1979, VA entered into 16 medical ADP procurements. Subsequent to the award of these contracts and purchase orders, inquiries conducted into their propriety disclosed that VA violated Federal Procurement Regulations in five terminated contracts. In response to recommendations for overcoming these problems, VA has moved to establish a greater degree of senior management involvement in the management and control of VA-wide ADP resources. Several policy directives have been signed which tighten the approval, coordination, and control of ADP resources. A user

group representing the medical centers has been established and five separate committees, each concerned with a specific area of medical center automation, has been organized within this group. While these are important steps in the right direction, it is too soon to assess the contribution they will make toward helping to improve patient care in the medical centers.

**113234**

***[Department of Energy Procurement Activities].*** EMD-80-114; B-199916. September 5, 1980. 4 pp. plus 2 enclosures (7 pp.). *Report* to Rep. John D. Dingell, Chairman, House Committee on Interstate and Foreign Commerce: Energy and Power Subcommittee; by J. Dexter Peach, Director, GAO Energy and Minerals Division.

**Issue Area:** Personnel Management and Compensation: Systems for Insuring Ethical Conduct (0316); Energy: Non-Line-of-Effort Assignments (1651); General Procurement: Major Problems That Prevent Agencies From Obtaining Effective Competition (1921).
**Contact:** Energy and Minerals Division.
**Budget Function:** Energy: Energy Supply (0271).
**Organization Concerned:** Department of Energy.
**Congressional Relevance:** *House* Committee on Interstate and Foreign Commerce: Energy and Power Subcommittee; *House* Committee on Interior and Insular Affairs: Energy and the Environment Subcommittee; *House* Committee on Interstate and Foreign Commerce: Oversight and Investigations Subcommittee; *House* Committee on Science and Technology: Energy Research and Production Subcommittee; *House* Committee on Interstate and Foreign Commerce: Transportation and Commerce Subcommittee; *Senate* Committee on Energy and Natural Resources; *Senate* Committee on Governmental Affairs: Civil Service and General Services Subcommittee; *Senate* Committee on Governmental Affairs: Federal Spending Practices and Open Government Subcommittee; *Senate* Select Committee on Small Business: Government Procurement Subcommittee; *Rep.* John D. Dingell; *Rep.* Morris K. Udall; *Rep.* Bob Eckhardt; *Rep.* James J. Florio; *Rep.* Mike McCormack; *Sen.* Henry M. Jackson; *Sen.* David H. Pryor; *Sen.* Lawton Chiles; *Sen.* Robert B. Morgan.
**Abstract:** The Department of Energy (DOE) has recently come under considerable scrutiny because of the magnitude of its procurement expenditures. Contract obligations of over $11 billion were reported in fiscal year 1980. Summarized data on several important aspects of DOE procurement processes are presented. ***Findings/Conclusions:*** DOE spends about 90 percent of its budget on procuring goods and services. Over one-half of DOE procurement money goes for contracts to operate its 49 Government-owned, contractor-operated facilities, including the 12 national laboratories. Contracts for operating DOE Government-owned facilities are almost never awarded competitively. DOE field operations are critical to the effectiveness of the procurement process because it is DOE policy to decentralize program and procurement decisionmaking and contract administration. GAO plans to devote a continued effort to evaluating DOE procurement activities, with emphasis on the following important basic questions: who decides, and on what basis, that a procurement action is either the essential or preferred means of accomplishing DOE objectives; how does DOE decide on the appropriate procurement method; how does DOE decide when goods or services are no longer necessary, and therefore, that a contract should be terminated; and how does DOE ensure that contractors' products are used within DOE and, when appropriate, made available for use by others?

**113235**

***Consolidating Military Base Support Services Could Save Billions.*** LCD-80-92; B-198788. September 5, 1980. 25 pp. plus 2 appendices (10 pp.). *Report* to Harold Brown, Secretary, Department of Defense; by Richard W. Gutmann, Director, GAO Logistics and Communications Division.

**Contact:** Logistics and Communications Division.
**Organization Concerned:** Department of Defense; Department of the Army; Department of the Air Force; Department of the Navy.
**Congressional Relevance:** *House* Committee on Appropriations; *House* Committee on Armed Services; *Senate* Committee on Appropriations; *Senate* Committee on Armed Services.
**Abstract:** Military base support services, such as payroll and administrative activities, base supply and transportation, maintenance and construction of buildings and roads, trash and sewage disposal, and personnel management, cost the Department of Defense (DOD) about 10 percent of the total Defense budget in fiscal year 1978. Studies have shown that the elimination of duplicate base support services, through consolidation, can achieve large savings without impairing mission effectiveness. In order to reduce costs, DOD established the following programs: (1) the Defense Retail Interservicing Support (DRIS) program; (2) the military services' programs to consolidate support services within each service; and (3) Commercial and Industrial-Type Activities, a program to contract for support services from private industry. ***Findings/Conclusions:*** Progress in the reduction of costs has been constrained because DOD is reluctant to force consolidations on the military services and because military personnel are reluctant to let someone else provide their base support services. Strong top-level leadership is needed to ensure that local interests will not be allowed to frustrate proposed consolidations and to convince the military services that consolidations can improve efficiency. In addition, the following problems need management attention: (1) the three programs sometimes nullify each other because they are managed separately; (2) DOD has not set specific cost reduction goals; (3) the DRIS program does not have sufficient staff resources; (4) the DRIS program's data bank does not provide the visibility needed to ensure that the most productive areas for reducing costs are studied; and (5) the services' intraservice support programs do not systematically assess the potential for consolidation savings and do not maintain data on their successes or failures. The DRIS program is a logical organizational framework to provide DOD visibility over the full range of cost reduction opportunities, and to coordinate all cost reduction efforts. To improve coordination, a single manager for military base support could be established. ***Recommendation To Agencies:*** The Secretary of Defense should strongly endorse a coordinated DOD-wide effort to eliminate unnecessary duplication of base support services whenever mission effectiveness will not be impaired. Specifically, the Secretary should: (1) establish a focal point, preferably the DRIS program, to coordinate the interservicing, intraservicing, and contracting out of base support, as well as to guide and monitor DOD-wide efforts; (2) set specific yearly cost reduction goals for each military service and require each service to set a goal for its subordinate commands; (3) reduce base support funds for components that consistently fail to reach the above-mentioned goals; and (4) assign additional full-time staffing to the Joint Interservice Resource Study Groups. In addition, the Secretary should broaden the scope of the DRIS program's data base to include: an inventory of the base support services each installation provides by functions and organizations; data on the cost and number of personnel at the supervisory, administrative, and worker levels involved with each of the support services by installation; and geographical data showing the relative distances between installations. Finally, the Secretary should direct the military services to clearly state their objectives of reducing costs through interservice support and maintain cost data on the success or failure of intraservice consolidations.

**113236**

***[Delays in Investing Employee Withholdings and Government Contributions to the Retirement, Life Insurance, and Health***

***Insurance Trust Funds].*** FGMSD-80-79; B-199709. August 21, 1980. 5 pp.

*Report* to Rep. Gladys N. Spellman, Chairman, House Committee on Post Office and Civil Service: Compensation and Employee Benefits Subcommittee; by Donald L. Scantlebury, Director, GAO Financial and General Management Studies Division.

**Issue Area:** Personnel Management and Compensation: Administration of Retirement Programs (0308); Accounting and Financial Reporting: Sound Cash Management (2805).

**Contact:** Financial and General Management Studies Division.

**Budget Function:** Income Security: Federal Employee Retirement and Disability (0602).

**Organization Concerned:** Office of Personnel Management.

**Congressional Relevance:** *House* Committee on Post Office and Civil Service: Compensation and Employee Benefits Subcommittee; *Rep.* Gladys N. Spellman.

**Abstract:** GAO was asked to review allegations made in an article in a periodical of poor accounting controls over checks from Federal agencies to the Office of Personnel Management (OPM) for deposit in trust funds that OPM manages, primarily for the benefit of Federal employees. The article alleged that the deficient controls related to checks transmitting employee withholdings and agency contributions for retirement, life insurance, and health insurance trust funds. The charge was made that millions of dollars in interest income had been lost by the trust funds because checks were missing and deposits were delayed while the checks were recovered. ***Findings/Conclusions:*** The allegations in the article dealt with conditions that existed at a time when checks were used exclusively to transmit deposits to the trust funds. The procedures that existed could have resulted in the alleged conditions. During that period, checks that were sent to OPM by Federal agencies had to be issued and controlled through elaborate and expensive procedures. Due to delays inherent in handling a large volume of checks, and because of procedural violations by agencies, processing and investment of the funds was delayed. However, since January 1978, Federal agencies have been required to transmit withholdings and contributions to OPM through bookkeeping entries rather than by check. The change in payment mechanism from check to journal voucher and the procedures for monitoring delays and estimating receipts and investments, have, and should continue, to reduce interest losses. GAO did not attempt to verify the losses cited in the article because they occurred under procedures that are no longer used.

**113237**

***[OPM's Initial Attempts To Implement Demonstration Provisions of the Civil Service Reform Act of 1978].*** FPCD-80-63; B-199378. September 5, 1980. 8 pp.

*Report* to Alan K. Campbell, Director, Office of Personnel Management; by Hyman L. Krieger, Director, GAO Federal Personnel and Compensation Division.

**Issue Area:** Personnel Management and Compensation: Civil Service Reorganization and Reform Implementation (0319).

**Contact:** Federal Personnel and Compensation Division.

**Budget Function:** Education, Training, Employment and Social Services: Research and General Education Aids (0503).

**Organization Concerned:** Office of Personnel Management; Department of the Navy; Internal Revenue Service; Merit Systems Protection Board.

**Authority:** Civil Service Reform Act of 1978.

**Abstract:** GAO observed the Office of Personnel Management's (OPM) initial attempts to encourage and evaluate proposals for demonstration projects authorized by Title VI of the Civil Service Reform Act of 1978. These projects are intended to determine whether a specified change in personnel management policies and procedures would result in improved Federal personnel management. They can involve waivers of certain existing laws, rules, and regulations. For that reason, it is required that project proposals proceed through a process of public notice, public hearing, and congressional review. ***Findings/Conclusions:*** GAO found that the results of OPM efforts to solicit demonstration projects were disappointing. Procedures for evaluating proposals were inefficient and not based on a framework which recognizes the unique costs and benefits of the demonstration concept. Moreover, the initial projects may have limited potential for application beyond the demonstration sites and, in one case, may have difficulty demonstrating successful results. Federal law requires agencies to consult with employees before including them in a demonstration project. However, the objectives of consultation and the extent to which it should occur are not specified by law, and OPM has not provided additional guidance in this area. ***Recommendation To Agencies:*** The Director of OPM should: (1) develop a framework for evaluating the proposals as a means of directing resources into the most significant areas; (2) require that proposals contain provisions for testing results beyond the demonstration project's environment; (3) assert the leadership of OPM in establishing project objectives which meet the needs of OPM and in assembling and coordinating the resources to insure these objectives are met; and (4) establish criteria and objectives for the employee consultations which make the process effective.

**113238**

***VA Must Strengthen Management of ADP Resources To Serve Veteran's Needs.*** FGMSD-80-60; B-199276. July 16, 1980. 40 pp.

*Report* to Rep. Jack Brooks, Chairman, House Committee on Government Operations; by Elmer B. Staats, Comptroller General.

**Issue Area:** Automatic Data Processing: Acquisition of ADP Resources Under the Brooks Act (0111).

**Contact:** Financial and General Management Studies Division.

**Budget Function:** Automatic Data Processing (1001).

**Organization Concerned:** Veterans Administration; Veterans Administration: Office of Data Management and Telecommunications.

**Congressional Relevance:** *House* Committee on Government Operations; *Rep.* Jack Brooks.

**Authority:** Automatic Data Processing Equipment Act (P.L. 89-306). F.P.M.R. 101-35. OMB Circular A-71.

**Abstract:** A review was undertaken of the Veterans Administration's (VA) management and use of its automated data processing (ADP) resources. VA uses computers extensively to aid in administering its various programs. Under the direction of its Office of Data Management and Telecommunications, VA operates six ADP centers and has a total staff of about 2,000. In addition to this ADP capability, VA has at least 400 minicomputers located at 172 VA medical centers in the United States, Puerto Rico, and the Philippines. An estimated $113 million was spent in 1979 for ADP system support, and VA expects to spend substantially more in the near future. Currently, VA has three major system development efforts underway. Two deal with its compensation, pension, and education applications, and the third effort deals with the development of a Health Care Information System. ***Findings/Conclusions:*** In its review, GAO found that VA needs to make better use of its ADP resources if it is to effectively support veterans' needs. A master ADP plan, guided more by overall ADP needs than by parochial wants, must be developed and followed. Serious weaknesses in the management of ADP resources can adversely affect the acquisition, development, and maintenance of ADP systems. Some of the weaknesses GAO found present in the VA ADP system include: (1) computer acquisition practices that do not meet user needs or comply with Federal policies; (2) software work approval practices that do not assure that resources spent on software are channeled to the most important projects; (3) ineffective control of software

work in process; (4) poorly coordinated use of data processing by VA hospitals; and (5) a need for more systematic and responsible involvement of hospitals in planning for a critical Health Care Information System estimated in 1978 to cost $520 million. Experience has shown that when users do not participate in a responsible manner in the development of a system, the system is destined for failure. ***Recommendation To Congress:*** Congress should withhold further funding for the Health Care Information System until the Appropriations Committees are satisfied that VA will implement the substance of the recommendations contained in this report. ***Recommendation To Agencies:*** The Administrator of Veterans Affairs should: (1) make a firm commitment to competitive procurement and establish management procedures as well as a formal planning process that will further the prompt competitive acquisition of the correct type and size of ADP equipment; (2) strengthen the planning process by requiring wider user participation, a distinction between required and discretionary software work, and more accountability at the senior management level; (3) establish a staff dedicated to performing discretionary software work such as development, redesign, enhancement, and conversion; (4) adopt and act to enforce the management techniques and procedures being proposed for controlling software work; (5) establish better coordination of hospitals' use of ADP resources; and (6) with the aid of users, analyze more thoroughly the health care system being planned. This analysis should include a detailed study of available capabilities in-house, in other Federal agencies, and in the private sector.

**113239**

***Highway Safety Research and Development--Better Management Can Make It More Useful.*** CED-80-87; B-197862. July 28, 1980. 69 pp. plus 2 appendices (2 pp.).

*Report* to Rep. Norman Y. Mineta, Chairman, House Committee on Public Works and Transportation: Oversight and Review Subcommittee; Rep. James C. Cleveland, Ranking Minority Member, House Committee on Public Works and Transportation: Oversight and Review Subcommittee; by Elmer B. Staats, Comptroller General.

**Issue Area:** Transportation Systems and Policies (2400).
**Contact:** Community and Economic Development Division.
**Budget Function:** Transportation: Ground Transportation (0404).
**Organization Concerned:** Department of Transportation; National Highway Traffic Safety Administration; Federal Highway Administration; National Highway Traffic Safety Administration; National Center for Statistics and Analysis.
**Congressional Relevance:** *House* Committee on Public Works and Transportation: Oversight and Review Subcommittee; *Rep.* Norman Y. Mineta; *Rep.* James C. Cleveland.
**Authority:** Highway Safety Act of 1966 (23 U.S.C. 401 et seq.). National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.). Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901).
**Abstract:** A national program, established by Congress in 1966 to reduce fatalities and improve highway safety programs at all levels of government, has provided about $380 million in Federal highway safety research funds. The objective of the research has been to design and demonstrate methods relating generally to drivers and pedestrians and to help State and local governments increase the effectiveness of their programs. Highway safety is difficult and complex, mainly because of unpredictable human behavior. Highway safety research has had many financial management problems. It has suffered from weak planning and a credibility gap, many of its results are unsuccessful, and there is a lack of knowledge about the use of results. Problems also exist in contract management. Readily accessible information to differentiate highway safety research funds from other program funds is not available. This has contributed to duplication of programs and misuse of State funds. ***Findings/Conclusions:*** The National Highway Traffic Safety Administration's budget presentations to Congress are confusing, misleading, or inaccurate. Federal research objectives lack credibility with the States because individual projects have been poorly planned, promoted, and evaluated. Although the agency has produced usable results, it has also done considerable research which produced results which could not be used by the States or had minimal user acceptance. Research frequently has been started which had little chance of success or has taken more time than anticipated to complete. Researchers and users have little input into program planning and know little about the use of research results, and projects do not address the most important topics. An improved research plan has been developed which should help alleviate problems, but more needs to be done. The present contract management practices have resulted in unmet time schedules, added costs, and a general lack of continuity in many contracts. The agency has tried unsuccessfully to spread contracting throughout the year, does not have an up-to-date accurate list of highway safety research contracts, and suffers from contract technical manager turnovers. GAO made a limited review of the Federal Highway Administration's highway safety research program and found fewer problems than in the Safety Administration's program. However, annual obligations for all highway safety research contracts need to be accurately identified and both administrations need a formal process of evaluating research results. ***Recommendation To Agencies:*** The Secretary of Transportation should require the Administrator, National Highway Traffic Safety Administration to: (1) identify highway safety research and other program obligations and expenditures so that detailed and summary information on contract and administrative matters is available to aid the agency in effectively administering its programs; (2) make clear budget presentations to provide Congress with schedules and narration showing specific areas where highway safety funds will be spent, including administration; and (3) use highway safety research funds only for that program's activities unless specifically authorized by Congress to do otherwise. He should direct the Administrator, National Highway Traffic Safety Administration to: (1) define the responsibilities of the agency's two offices which are performing research, establish who will have overall responsibility for the highway safety research program, and delegate authority to carry that work out accordingly; (2) consistently use internal and external input in its formal planning process to compile and analyze available research in each program area, set priorities for countermeasures and projects which will be most beneficial to users, and incorporate all highway safety research activities; (3) use the successful planning processes of other highway safety research groups as a guide for its planning; (4) formally evaluate successful and unsuccessful research and determine what uses have been made of the results; (5) make available to the highway safety community research results; and (6) closely monitor contracts so that usable results can be developed with fewer delays. He should direct the Safety Administrator to initiate a system of contract design and monitoring that will reduce modifications and award contracts throughout the year. Also, the Safety Administrator should maintain accurate contract lists and take steps to reduce unnecessary contract technical manager turnovers. The Secretary should require the Administrator, Federal Highway Administration, to account annually for safety research contract obligations. Both administrators should be required by the Secretary to develop formal processes to assess the use of research results.

**113240**

***Highway Safety Research and Development--Better Management Can Make It More Useful.*** CED-80-87A; B-197862. July 28, 1980. 110 pp.

*Report* to Rep. Norman Y. Mineta, Chairman, House Committee on Public Works and Transportation: Oversight and Review

Subcommittee; Rep. James C. Cleveland, Ranking Minority Member, House Committee on Public Works and Transportation: Oversight and Review Subcommittee; by Elmer B. Staats, Comptroller General.
Supplement to CED-80-87.

**Issue Area:** Transportation Systems and Policies (2400).
**Contact:** Community and Economic Development Division.
**Budget Function:** Transportation: Ground Transportation (0404).
**Organization Concerned:** Department of Transportation; National Highway Traffic Safety Administration; Federal Highway Administration; National Highway Traffic Safety Administration: National Center for Statistics and Analysis.
**Congressional Relevance:** *House* Committee on Public Works and Transportation: Oversight and Review Subcommittee; *Rep.* Norman Y. Mineta; *Rep.* James C. Cleveland.
**Authority:** Highway Safety Act of 1966. 23 U.S.C. 402. 23 U.S.C. 403.
**Abstract:** GAO responded, on a comment-by-comment basis, to the Department of Transportation's reply to its draft report entitled "Highway Safety Research and Development--Better Management Can Make It More Useful." Any changes to the draft report which were due to Department comments were incorporated in the final report. The Department of Transportation did not concur in the majority of the findings and conclusions of the draft report and recommended that GAO carefully consider the facts and its comments prior to writing a final report.

**113241**

***VA Improved Pension Program: Some Persons Get More Than They Should and Others Less.*** HRD-80-61; B-114859. August 6, 1980. ***Released*** September 8, 1980. 41 pp. plus 15 appendices (47 pp.). *Report* to Rep. Ray Roberts, Chairman, House Committee on Veterans' Affairs; Sen. Alan Cranston, Chairman, Senate Committee on Veterans' Affairs; by Elmer B. Staats, Comptroller General.

**Issue Area:** Income Security and Social Services: Payment Processes (1309).
**Contact:** Human Resources Division.
**Budget Function:** Income Security: Public Assistance and Other Income Supplements (0604).
**Organization Concerned:** Veterans Administration; Department of Health and Human Services; Social Security Administration.
**Congressional Relevance:** *House* Committee on Veterans' Affairs; *Senate* Committee on Veterans' Affairs; *Rep.* Ray Roberts; *Sen.* Alan Cranston.
**Authority:** Social Security Act.
**Abstract:** Congress hoped that the law improving pension for needy veterans which went to effect January 1, 1979, would enable veterans and their survivors to receive benefits above the poverty level and help them avoid turning to welfare, such as the Supplemental Security Income (SSI) program provides. ***Findings/ Conclusions:*** Some couples who receive SSI and VA pensions receive more in benefits from these two programs than do other couples with similar or smaller incomes from other sources. The principal coordination of benefit information between VA and the Social Security Administration (SSA) occurs through automated data exhanges. Some changes are needed in this coordination to improve the accuracy of benefit payments by VA and to eliminate the exchange of unnecessary records. GAO estimate $14.5 million of inaccurate pensions payments were made, principally in 1978. This consisted of: (1) $9.6 million in overpayments because the veterans and/or their spouses failed to report to VA receipt of social security benefits and VA did not use the benefit data provided by SSA in the January 1979 data exchange; (2) $1.7 million in overpayments and $0.3 million in underpayments substantially because one of the matching characteristics SSA used was not on the VA records; (3) $2.0 million in overpayments because veterans and/or their spouses did not accurately report receiving SSA black lung benefits; and (4) $0.9 million in underpayments because VA pensioners improperly reported their SSI benefits as social security benefits. VA is providing SSA, in the quarterly data exchange, an estimated 5.1 million unneeded records because it did not use the SSI indicators to limit the number of records provided. Additionally, VA is unnecessarily requesting SSA data for an estimated 618,700 known deceased veterans in the annual data exchange. ***Recommendation To Agencies:*** The Secretary of Health and Human Services should direct the Commissioner of Social Security to immediately notify SSI-VA recipients residing in those States and District of Columbia where Medicaid eligibility is not directly related to SSI eligibility that they must file for VA improved pension benefits and elect such benefits if they are higher than VA benefits presently being received. The Secretary should revise Health and Human Services regulations for the SSI program so that VA pension benefits received by a veteran ineligible for SSI will be counted as income to the spouse of the veteran in determining the eligibility of the spouse and be allocated and treated in the same manner as other Federal benefits not based on need. The Administrator of Veterans Affairs should: (1) use the SSA annual data exchange to identify and adjust pension payments to pensioners who did not report their social security benefits and have not yet been detected; (2) establish a data exchange to verify Federal Black Lung benefits and review other Federal benefit programs to determine the need for, and feasibility of, obtaining benefit information from other agencies; and (3) stop providing records during the annual data exchange on veterans deceased more than 1 year. The Administrator should also stop providing records during the quarterly exchange for pensioners who are not SSI recipients. In this regard, the Commissioner of Social Security should provide VA sufficient information to identify those pensioners who are SSI recipients. The Administator and Commissioner should also take the necessary action to resolve identification problems in the annual data exchange. VA should ask SSA to search for surviving spouses by using, when provided, a spouse's social security number.

**113242**

***Allegations About the Ohio Bureau of Employment Services' Operations in Cleveland, Ohio.*** HRD-80-105; B-199616. August 27, 1980. ***Released*** September 8, 1980. 3 pp. plus 1 appendix (24 pp.). *Report* to Rep. Louis Stokes; by Edward A. Densmore, Jr. (for Gregory J. Ahart, Director), GAO Human Resources Division.

**Issue Area:** Federally Sponsored or Assisted Employment and Training Programs: Job Placement Assistance Offered by Employment Services (3255).
**Contact:** Human Resources Division.
**Budget Function:** Education, Training, Employment and Social Services: Training and Employment (0504).
**Organization Concerned:** Department of Labor, Ohio Bureau of Employment Services.
**Congressional Relevance:** *Rep.* Louis Stokes.
**Authority:** Comprehensive Employment and Training Act of 1973.
**Abstract:** In July 1979, the recently retired District Manager of the Ohio Bureau of Employment Services (OBES) for the Cleveland area charged OBES with failing to correct numerous problems in providing services to the unemployed. Specifically, the former District Manager said that: (1) unemployed persons in Cleveland were not being placed in jobs because the Cleveland Employment Services' offices were inadequately staffed while suburban offices were fully staffed; (2) the facilities in Cleveland were physically inadequate to serve the population of Cleveland, while two offices serving mostly white suburban populations were modern and well-equipped; and (3) locations of OBES offices were not adequate. GAO examined: (1) OBES practices in staffing local job service offices and in using the computerized job match system; and (2) the physical conditions and locations of OBES local offices.

***Findings/Conclusions:*** The Cleveland District of OBES covers the counties of Cuyahoga, Lake, Lorain, Medina, and Geauga. OBES has 11 employment offices in this district: 6 in Cuyahoga County (4 in Cleveland), 2 in Lorain, and 1 in Lake, Medina, and Geauga Counties. GAO believed the Downtown, Superior, and East offices appear to be overstaffed relative to the other four offices in Cuyahoga and Lake Counties, while the Parma, West, and Painesville offices appear to be understaffed. GAO analysis of productivity showed that for the fiscal year 1979, Parma, West, and South appeared to be more productive offices, and the Downtown, Superior, and East offices appeared to be relatively less productive. GAO found all except two of the nine offices inspected in the Cleveland District required repair, maintenance, or relocation. The two offices not requiring this were the recently acquired Parma and East offices. While GAO did not believe that OBES had furnished and maintained offices in the suburban areas at the expense of offices in Cleveland, it was the opinion of GAO that OBES had not been timely in performing repair, maintenance, and relocation. GAO also that found the offices in the Cuyahoga County area are reasonably located and allow all segments of the population to be served. Additional offices are needed in the Cleveland area according to regional Labor and OBES Central Office officials.

**113243**

***Poor Management of GSA's Self-Service Stores Leads to Needless Duplication and Potential for Fraud.*** PSAD-80-64; B-171019. August 28, 1980. ***Released*** September 2, 1980. 40 pp. plus 3 appendices (13 pp.).

*Report* to Rep. John L. Burton, Chairman, House Committee on Government Operations: Government Activities and Transportation Subcommittee; Sen. Lawton Chiles, Chairman, Senate Committee on Governmental Affairs: Federal Spending Practices and Open Government Subcommittee; by Elmer B. Staats, Comptroller General.

**Issue Area:** General Procurement: Effectiveness of Central Supply Agencies in Providing Quality Products and Services (1923).
**Contact:** Procurement and Systems Acquisition Division.
**Budget Function:** Procurement--Other Than Defense (1007).
**Organization Concerned:** General Services Administration; Office of Management and Budget.
**Congressional Relevance:** *House* Committee on Government Operations: Government Activities and Transportation Subcommittee; *Senate* Committee on Governmental Affairs: Federal Spending Practices and Open Government Subcommittee; *Rep.* John L. Burton; *Sen.* Lawton Chiles.
**Authority:** Property and Administrative Services Act.
**Abstract:** The Self-Service Store Program (SSS) was set up by the General Services Administration (GSA) to provide executive agencies with an efficient and economical supply system and, thereby, effect the consolidation of unnecessary agency stockrooms. GSA has had problems with the implementation of the program, and in 1977 widespread fraud surfaced in the SSS system. The purpose of the SSS review was to assess the effectiveness of the program in fulfilling the intent of the Federal Property and Administrative Services Act, as amended. ***Findings/Conclusions:*** GAO found that SSS does not competently support agencies' retail needs nor eliminate unnecessary agency stores and stockrooms. GSA lacks effectiveness in control over store inventories, management oversight of store operations, and control over shopping plates issued to Federal activities. In addition, it was found that GSA stores mispriced supplies, failed to order out-of-stock supplies, stocked defective supplies, and experienced security problems. Several Federal activities were found to be operating their own stores and stockrooms in the same building as GSA stores. It was also found that GSA has opened stores. (1) with the intent to serve Federal activities many miles from GSA stores; (2) with the intent to serve other agencies' retail outlets; and (3) based on overstated projected sales. GSA is considering reinstituting a service known as special order drop shipments, which GAO believes is an improper function of the stores and an attempt to increase sales. SSS fails to fulfill the intent of the Federal Property and Administrative Services Act, as amended. The GSA lack of adherence to its policies and procedures contributed to problems within the system. GSA must first improve the operations of its own retail outlets before it identifies and consolidates unnecessary agency stores and stockrooms. ***Recommendation To Agencies:*** The Administrator of GSA should: (1) review each GSA store and its customers and determine if the store can survive as a retail outlet and discontinue support to other agency retail outlets; (2) determine the retail supply needs of Federal activities within a reasonable vicinity of the GSA stores and meet these needs on a consistent basis; (3) provide management control over program operations including a commercial inventory and accounting system, regular unannounced audits, management surveillance reports, and the identification of shopping plates maintained by Federal activities; (4) improve the operations of the GSA stores by assuring that out-of-stock items are reordered, defective supplies are not sold, store items are priced according to procedures, and security is maintained over store merchandise; (5) maintain the exclusion of special order drop shipments from the stores' activities; and (6) work closely with the Office of Management and Budget to develop criteria for a cost-benefit analysis to be applied consistently to eliminate unnecessary agency stores and stockrooms.

**113244**

***[Allegations That Congressman Seiberling Received Preferential Treatment Regarding Land Transactions in the Cuyahoga Valley National Recreation Area].*** CED-80-135; B-199379. August 27, 1980. ***Released*** September 8, 1980. 5 pp. plus 2 enclosures (2 pp.).

*Report* to Rep. John F. Seiberling; by Elmer B. Staats, Comptroller General.

**Issue Area:** Land Use Planning and Control: Planning for Land Use (2305).
**Contact:** Community and Economic Development Division.
**Budget Function:** Natural Resources and Environment: Conservation and Land Management (0302).
**Organization Concerned:** Department of the Interior; National Park Service: Cuyahoga Valley National Recreation Area, OH.
**Congressional Relevance:** *Rep.* John F. Seiberling.
**Authority:** P.L. 93-555.
**Abstract:** Allegations were made that Congressman Seiberling received preferential treatment from the National Park Service (NPS) regarding land he owned and previously owned in the Cuyahoga Valley National Recreation Area (CVNRA). Specifically, it was alleged that he was allowed to keep his home in the recreation area subject to certain restrictions (a scenic easement) while others were required to sell their homes to the Park Service. ***Findings/Conclusions:*** GAO reviewed the legislation authorizing CVNRA, segment maps showing the location of each property in the area, and the land acquisition plan showing the interest to be acquired in properties. GAO also reviewed land acquisition records and interviewed NPS officials to obtain their reasons for allowing some landowners to keep their homes while others were required to sell. The review showed that Congressman Seiberling and his wife donated a scenic easement on the property containing his residence to the Akron Metropolitan Park District in February 1972, which was 33 months before CVNRA was established in December 1974. NPS plans to acquire the easement, which is in an area where the Service is acquiring easements from adjacent property owners rather than full title. On the basis of this review, it did not appear to GAO that NPS had given or planned to give Congressman Seiberling preferential treatment.

**113245**

***Progress in Improving Program and Budget Information for Congressional Use.*** PAD-80-90; B-200111. August 29, 1980. 3 pp. plus 2 enclosures (8 pp.).

*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Program and Budget Information for Congressional Use (3400).

**Contact:** Program Analysis Division.

**Budget Function:** Financial Management and Information Systems (1100).

**Organization Concerned:** Office of Management and Budget; Department of the Treasury.

**Congressional Relevance:** Congress.

**Authority:** Legislative Reorganization Act of 1970. Congressional Budget Act of 1974.

**Abstract:** During the past year, GAO has studied and reported on many aspects of the budget process. It has provided numerous reports to Congress, testimony before congressional committees, and other assistance to members and staff of Congress. These reports included analyses and recommendations for improving agencies' budget execution, including improvements in monitoring and controlling spending patterns to avoid wasteful yearend obligations and expenditures. ***Findings/Conclusions:*** GAO addressed needed improvements in budget formulation and information in reports concerning zero-base budgeting; case studies of budget development in various agencies; the feasibility of a mission budget structure for one agency; and the use of full funding practices for multiyear projects and activities. Reports and testimony analyzed proposals for improving congressional oversight and executive branch accountability. Other matters covered included needed improvement in budget treatment of agency borrowings, ways to enhance congressional control over Federal credit activities and research and development programs, and the elimination of needless agency reports to Congress. GAO continued its cooperative work with agencies to provide program and budgetary information to several congressional authorizing committees for use in their reports to the Budget Committees. GAO is now preparing a comprehensive report on current issues in the budget process. It hopes to identify ways of resolving budgetary issues and achieving the needed consistency and unity in budgetary concepts and practices envisioned in the Legislative Reorganization Act of 1970.

**113246**

***[The Internal Revenue Service Needs To Reconsider Its Examination Strategy for Certain Partnership Returns].*** GGD-80-98; B-199981. September 5, 1980. 14 pp.

*Report* to Jerome Kurtz, Commissioner of Internal Revenue, Department of the Treasury; by William J. Anderson, Director, GAO General Government Division.

**Issue Area:** Tax Administration: Selecting and Auditing Tax Returns (2708).

**Contact:** General Government Division.

**Budget Function:** General Government: Tax Administration (0807).

**Organization Concerned:** Internal Revenue Service; Department of the Treasury.

**Congressional Relevance:** *Joint* Committee on Taxation.

**Abstract:** A GAO study of the Internal Revenue Service (IRS) administration of the partnership tax laws dealt with the IRS program for examining traditional partnerships as opposed to those partnerships established for tax shelter purposes. The report discusses IRS processes for setting examination goals and developing discriminate function system formulas for identifying those traditional partnership returns most in need of examination. Since 1978, IRS has given greater emphasis to examining partnership returns. This resulted primarily from increased use of partnerships for tax sheltering purposes and IRS wanting to have an aggressive program for identifying those returns that violate the law. The program included a doubling of its examination goal and increased use of an approach in which the partnership return is the starting point for many examinations. IRS also separated partnership returns into four audit classes. IRS generally equated the partnership class with losses of $25,000 or more with tax shelters, and equated the remaining classes with traditional partnerships. IRS reasoning was that traditional partnerships are usually formed to generate a profit while shelter partnerships are usually formed to generate a loss. ***Findings/Conclusions:*** About one of every two examinations of traditional partnerships analyzed during the period of the study resulted in no change to the return filed. Two underlying factors which contributed to this were (1) the lack of data needed to determine a proper level of examination effort, and (2) the lack of data needed to develop effective discriminate function system formulas for identifying returns with the highest potential for change among all those filed. The present four audit classes are not the proper planning basis to separate tax shelter from traditional partnership returns. Many returns within the traditional partnership audit classes have tax shelter potential. ***Recommendation To Agencies:*** IRS should reconsider its examination strategy for partnerships. The Commissioner of IRS should first decide whether the partnership program should continue to address traditional partnerships. If the answer is yes, he should better distinguish between traditional and tax shelter partnerships so that respective goals can be set and accomplishments measured with more precision. He should develop the voluntary compliance and cost/yield data necessary for establishing appropriate partnerships, and develop a system for more effectively identifying those traditional partnership returns having the greatest potential for change.

**113247**

***Transportation Issues in the 1980's.*** CED-80-133. September 8, 1980. 47 pp. plus 1 appendix (5 pp.).

*Staff Study* by Henry Eschwege, Director, GAO Community and Economic Development Division.

**Issue Area:** Consumer and Worker Protection (0900); Energy (1600); Environmental Protection Programs (2200); Transportation Systems and Policies (2400).

**Contact:** Community and Economic Development Division.

**Budget Function:** Transportation (0400); Transportation: Ground Transportation (0404); Transportation: Air Transportation (0405); Transportation: Water Transportation (0406).

**Organization Concerned:** Department of Transportation; Civil Aeronautics Board; Interstate Commerce Commission; Department of Commerce.

**Authority:** Chrysler Corporation Loan Guarantee of 1979 (P.L. 96-185). Highway Act of 1966. Motor Carrier Act of 1980 (P.L. 96-296). Passenger Railroad Rebuilding Act of 1980 (P.L. 96-254). Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210). National Traffic and Motor Vehicle Safety Act of 1966. Highway Safety Act of 1966. Motor Vehicle Information and Cost Savings Act. Rail Passenger Service Act of 1970. International Air Transportation Competition Act of 1979 (P.L. 96-192). Merchant Marine Act, 1970. P.L. 95-163. P.L. 95-504. P.L. 96-193.

**Abstract:** GAO made a study based on its plan for audits of Federal transportation programs. The study report presents a perspective on the current and emerging transportation issues which GAO audit work must address, discusses selected major issues in detail, and summarizes related GAO audit work. The report discusses long-range trends in energy, the environment, and new technology which will affect transportation during the coming decade. An overview is presented of the Government agencies, congressional committees, private sector lobby groups, and research organizations involved in transportation issues. Problem and issue areas addressed include: the improvement of the effectiveness of Federal efforts to plan and coordinate multimodal/intermodal

transportation policies and programs; the improvement of the economic health of the Nation's railroads; Federal efforts to improve motor vehicle and traffic safety, and to increase auto fuel economy; the prevention of highway deteriorization; the potential impacts of deregulation on railroads, trucks, and intercity buses; the elimination of unnecessary regulations; consumer protection; Federal aid programs to help local communities improve transit service; the management of Amtrack; Federal responsibilities for aviation safety; airport management and airline regulation; the revitalization of the merchant marine and shipbuilding industries; and the emerging trends and new technology that will effect transportation during the 1980's.

**113248**

***[More Improvements Can Be Made in HUD's Research and Technology Activities].*** CED-80-134: B-199825. August 29, 1980. 13 pp. plus 1 enclosure (6 pp.).

*Report* to Moon Landrieu, Secretary, Department of Housing and Urban Development; by Henry Eschwege, Director, GAO Community and Economic Development Division.

**Issue Area:** Domestic Housing and Community Development: Research and Development Efforts in Housing (2156).
**Contact:** Community and Economic Development Division.
**Budget Function:** Community and Regional Development: Community Development (0451).
**Organization Concerned:** Department of Housing and Urban Development; Department of Housing and Urban Development: Assistant Secretary for Community Planning and Development.
**Abstract:** A recently completed review of the Department of Housing and Urban Development's (HUD) research and technology activities focused on those activities initiated within the past 3 years. To achieve a variety of objectives, the HUD Office of Policy Development and Research (PDR) conducts extremely diverse research which includes hundreds of projects spread among many subject areas. ***Findings/Conclusions:*** Positive steps taken to strengthen the research and technology program include improved in-house research capabilities, better product dissemination, and improved management procedures. Progress has also been made in achieving a more focused and responsive research program. However, further progress is limited by the fragmentary nature of the research. Some dissatisfaction still exists among the many HUD and non-HUD user groups due to the lack of specific and meaningful research objectives clearly defining how and to what extent HUD research will address user needs. More attention is needed to involve program offices in research planning and management, to improve the selection of procurement instruments, and to develop a self-evaluation system. ***Recommendation To Agencies:*** The Secretary of HUD should: develop guidelines specifying the circumstances under which research and demonstrations can be performed in program offices and the role the Office of Policy Development and Research should have in such activities; direct the Assistant Secretary for Policy Development and Research, in conjunction with departmental top management, to develop specific, measurable research objectives defined in terms of major research questions to be addressed and user groups to be served by the research program; and direct the Assistant Secretary for Policy Development and Research to improve other aspects of priority setting. To improve research management, the Secretary should direct the Assistant Secretary for Policy Development and Research to: intensify internal oversight of its use of various procurement devices, especially task order contracts and sole-source agreements, with a goal to increase competition to the fullest extent possible; use Government Technical Monitors to a much greater extent, especially in those areas where program offices have an interest; and develop a self-evaluation system for measuring research results against specific objectives on a regular basis.

**113249**

***[Protest of Elimination From Competitive Range].*** B-197245. September 9, 1980. 10 pp.

*Decision* re: Atlantic Construction & Maintenance Corp.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Atlantic Construction & Maintenance Corp.; National Aeronautics and Space Administration: George C. Marshall Space Flight Center, Huntsville, AL.
**Authority:** B-189725 (1978). B-194398.1 (1979). B-197123 (1980). B-187887 (1977). B-183105 (1975). B-195561 (1980). B-190760 (1978).
**Abstract:** A firm protested its elimination from the competitive range by the National Aeronautics and Space Administration (NASA) for a contract for maintenance and support services. The protester alleged that the NASA Source Evaluation Board (SEB) members were unqualified to evaluate proposals for the project and that NASA officials were biased against the protester, a female-owned company. GAO does not make determinations as to the relative merits of technical proposals. That function is the responsibility of the contracting agency. This also applies to reviews of competitive range determinations. The request for proposals prohibited the use of Government-owned computer services for the contractor's internal use. However, the protester's bid was unclear as to its proposed use of its own computer; it implied an intent to use both its own and NASA computers. Thus, NASA interpreted the proposal as proposing the prohibited use of Government computer equipment and programs. GAO could not take exception to the NASA position in regard to this. Overall, the record showed that the protester had major weaknesses in all areas of proposal evaluation unrelated to the computer problem. Its technical evaluation score was one-third as high as the highest ranked offeror and only half as high as the lowest ranked offeror. GAO could not question the exclusion of the proposal on this ground. There was no basis to question the evaluators' qualifications in this case. The allegation of bias on the part of NASA officials was not supported by the record, since the protester did not show the evaluation to be arbitrary. Accordingly, the protest was denied.

**113250**

***[Protest of Bid Rejection as Nonresponsive].*** B-199884. September 9, 1980. 2 pp.

*Decision* re: Osan Petroleum Co., Inc.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Osan Petroleum Co., Inc.; Defense Logistics Agency: Defense Fuel Supply Center.
**Authority:** 4 C.F.R. 20.2(a). B-194714.2 (1979). B-193050 (1979).
**Abstract:** The low bidder on a contract to supply diesel fuel to two military bases protested the rejection of its bid. The Defense Logistics Agency (DLA) rejected the proposal as nonresponsive, because the protester added "plus freight" to the posted price shown for price adjustment on its bidder price data card. DLA stated that if it had accepted the bid, it would have been possible for the protester to claim unlimited increases for its transportation costs contrary to the invitation and applicable regulations. About 2 months after a protest filed with the agency was denied, a protest was filed with GAO. Protest procedures provide that protests filed with GAO subsequent to being filed with the contracting agency must be filed within 10 working days of the protester's knowledge of the agency's initial adverse action. Since the protest was clearly untimely, it was dismissed.

**113251**

***[Request for Reconsideration].*** B-196010.2. September 5, 1980. 3 pp.

*Decision* re: Arawak Consulting Corp.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Arawak Consulting Corp.; Department of Health and Human Services; Dialogue Systems, Inc.
**Authority:** Freedom of Information Act. 4 C.F.R. 20. 4 C.F.R. 20.2(b)(2). 4 C.F.R. 20.3(d). B-196010 (1980). B-196832 (1980). B-189462 (1979).
**Abstract:** A firm requested reconsideration of a previous decision which denied in part and dismissed in part its protest of the evaluation, selection, and award process used by the Department of Health and Human Services (HHS). In its request for reconsideration, the protester asked that GAO consider those allegations which were previously dismissed as untimely. GAO agreed to consider the bid protest allegations since GAO may have unintentionally misled the protester into believing that its bid protest procedures had been waived when it granted the protester an extension on the time limit for filing comments on the contracting agency's report. The record showed that the contract was solicited as a set-aside pursuant to the Small Business Administration's 8(a) program. The allegations previously considered untimely included the contentions that: (1) the successful offeror was accorded preferential treatment by HHS evaluators through the waiver of various informational deficiencies in the awardee's proposal, whereas, the protester was held responsible for its informational deficiencies; (2) the awardee's proposal failed to include resumes for proposed subcontract staff; (3) the awardee's proposal authorship was not presented; and (4) the initial point scores appearing on the evaluators' rating sheets were changed several times. Previously, GAO held that its scope of review with respect to the evaluation of proposals of a contractor recommended to the Small Business Administration under the 8(a) program is limited to determining whether there has been a showing of fraud or bad faith on the part of Government officials. In the present reconsideration, GAO held that the protester failed to explain the impact of the awardee's failure to reveal its proposal's authorship, nor does the fact that evaluators changed point scores in the evaluation of both offerors indicate any impropriety. Additionally, GAO held that the record showed that although the protester did not agree with the agency's judgment regarding deficiencies in .'s proposal, the protester did not argue that HHS acted in bad faith or that fraud was involved. Nor was there evidence of either fraud or bad faith in the record. Thus, GAO found no basis to object to the agency's evaluation. Accordingly, that portion of the previous decision which denied the protest was affirmed, and that portion of the protest which was dismissed by the prior decision was denied.

**113252**
***[Claim for Service Charges].*** B-199915. September 8, 1980. 2 pp.
*Letter* to Sen. S. I. (Sam) Hayakawa; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Knorr Pool Systems, Inc.; Defense Logistics Agency: Contract Administration Services, Los Angeles, CA.
**Congressional Relevance:** *Sen.* S. I. (Sam) Hayakawa.
**Authority:** B-183047 (1975).

**113253**
***[Recoupment of Union Dues].*** B-180095. September 8, 1980. 4 pp.
*Decision* re: Department of the Army: Hunter Army Airfield, Fort Stewart, GA.

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Army: Hunter Army Airfield, Fort Stewart, GA.
**Authority:** 5 C.F.R. 550.322(c). 5 C.F.R. 550.321. 5 C.F.R. 550.324. 54 Comp. Gen. 921. Executive Order 10982. Lodge 2424, International Association of Machinists and Aerospace Workers, AFL-CIO v. United States, 215 Ct. Cl. 125 (1977). American Federation of Government Employees Local 1858 (AFL-CIO) v. Alexander, Civ. Act. No. 78-W-5023-NE (D. Ala. 1978). B-194692 (1979). B-180095 (1977). 5 U.S.C. 5525. 5 U.S.C. 5527.
**Abstract:** An accounting officer asked whether the Government is required to reimburse employees for union dues allotments which were continued after the employees were no longer a part of the bargaining unit represented by the union. The record showed that through an administrative error the U.S. Army Communications Command continued to deduct and transmit dues to the union on the basis of allotments of employees who were no longer in the bargaining unit. In response to the request, GAO held that although the allotments were erroneously withheld, the Government is not required to pay back the withheld allotments to the employees. The employees should not be relieved of their duty to advise the agency promptly if allotments are being improperly withheld, even though it is the primary responsibility of an agency to cancel allotments of union dues when an employee is no longer in the bargaining unit. In any case, the employees do not lose the money in question since it was owed to the union. Further, the union was not being unjustly enriched, since it was entitled to dues from its members. Therefore, the erroneous allotment payments should not be recouped from the union.

**113254**
***[Protest of Navy Failure To Provide Requested Information].*** B-199591. September 8, 1980. 1 p.
*Decision* re: U.S. Duracon Corp.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Transportation Law.
**Organization Concerned:** U.S. Duracon Corp.; Department of the Navy: Naval Air Station, Patuxent, MD.
**Authority:** Freedom of Information Act (5 U.S.C. 552). 53 Comp. Gen. 553. Bannercroft Clothing Co. v. Renegotiation Board, 466 F.2d 345 (D.C. Cir. 1972). B-186842 (1978).
**Abstract:** A firm protested the failure of the Department of the Navy to provide the firm with certain information requested under the Freedom of Information Act. GAO is without authority under the Freedom of Information Act to determine what information must be released by other Government agencies. Moreover, if a party properly requests information from an agency and the request is denied, the only remedy is by suit in the U.S. District Court. Accordingly, the protest was dismissed.

**113255**
***[Reclaim for Actual Subsistence Expenses].*** B-197576. September 8, 1980. 5 pp.
*Decision* re: Richard B. Davis; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** Federal Aviation Administration: Accounting Division.
**Authority:** 4 C.F.R. 52.3. 52 Comp. Gen. 78. 55 Comp. Gen. 1107. 58 Comp. Gen. 706. F.T.R. para. 1-1.3. F.T.R. para. 1-8.3b. B-182853 (1976). B-186078 (1976). B-187344 (1977). B-192246 (1979). B-198301 (1980).
**Abstract:** A request was made for reconsideration of the Claims Division settlement which allowed in part the claim of a Federal Aviation Administration (FAA) employee for additional lodging costs and taxi fares incurred while on a temporary duty assignment. The issue to be decided was the reasonableness of the lodging costs

and taxicab fares. On the basis of oral notification of a pending trip, and prior to the issuance of travel orders, the employee made lodging and travel arrangements for himself and his wife through a travel agent. The employee made a nonrefundable prepayment to the travel agent for the lodging costs. The travel orders authorized actual expenses not to exceed $66 per day. The employee claimed $52 per day lodging expense for his stay. Other FAA employees on the same temporary duty assignment stayed at rooms reserved by the FAA. The other employees incurred lodging expenses of $24 per day, and their taxi fares were less since their lodgings were closer to the temporary duty site and to the airport. FAA reduced the employee's claim for reimbursement to that claimed by the other employees on the basis that the additional expenses were personal and the employee did not act in a prudent manner. The FAA made a determination of reasonableness based on the expenses incurred by the other employees on temporary duty at the same time at the same duty station. GAO saw nothing unreasonable about the FAA determination. The employee made his hotel reservations prior to official notification and prior to the issuance of travel orders. The FAA notification to the employees stated that the employees should make their own travel and lodging arrangements. However, the inclusion in the notification of the availability of rooms for FAA employees, together with the phone numbers to call for reservations, made it clear that the employees should call the hotels listed. The employee used a travel agent despite a general restriction against the use of travel agents to procure official Government travel. The employee claimed the maximum amount he was allowed of $66, and the fact that the amount claimed was the amount allowed did not automatically entitle the employee to reimbursement. Therefore, GAO found the employee not entitled to the additional travel reimbursement. Accordingly, the Claims Division settlement was sustained.

**113256**

***The Foreign Tax Credit and U.S. Energy Policy.*** EMD-80-86; B-199972. September 10, 1980. 45 pp. plus 5 appendices (13 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Tax Policy: Economic Impact of Taxation on Major Industries or Sectors of the U.S. Economy (1504); Energy: Effect of Federal Financial Incentives, Tax Policies, and Regulatory Policies on Energy Supply (1610).
**Contact:** Energy and Minerals Division.
**Budget Function:** Energy: Energy Information, Policy, and Regulation (0276); General Government: Legislative Functions (0801).
**Organization Concerned:** Department of the Treasury; Department of Energy.
**Congressional Relevance:** Congress.
**Authority:** Income Tax Act. Internal Revenue Code (IRC).
**Abstract:** The foreign tax credit allows U.S. corporations to credit a portion of their foreign income taxes paid abroad against their U.S. income tax liability on this income. The oil and gas industry claims the greatest portion, about 75 percent, of the total foreign tax credit. To counter perceived inequities in the tax treatment of U.S. oil companies, Congress has made several changes to the credit which have restricted its use by the industry. GAO attempted to determine: (1) whether the foreign tax credit, as it currently works, hinders, promotes, or is neutral with regard to achieving the goals of reducing U.S. oil imports and diversifying the sources of imported oil; (2) what alterations to the credit might be required to make tax law more consistent with the attainment of these energy goals; and (3) if it is possible or advisable to use the credit as a tool of U.S. energy policy. ***Findings/Conclusions:*** GAO found that the foreign tax credit benefits the oil industry by lowering its U.S. tax burden as against the alternative of claiming foreign taxes as a deduction. Eliminating or further restricting the credit could result in a significant financial loss to the industry and could possibly have an adverse impact on the industry's ability to invest. Elimination of the credit would increase these companies' U.S. tax liability. However, this might be offset by other industry actions, such as passing the cost of additional taxes through to consumers or altering the corporate form of exploration and development activity. However, the credit has had little impact on exploration and development activities to date since taxes are rarely a deciding factor in foreign investment decisions. It was also concluded that the foreign tax credit does not subsidize overseas activity at the expense of domestic activities. The relatively high tax rates in most countries on oil production and the limitations on the credit make foreign activity more expensive than domestic activity from a tax standpoint. Most evidence on the impact of altering the credit points to a negative but marginal effect on such factors as industry profits, competitive standing, and foreign exploration and development activity. It is doubtful that U.S. energy policy would be either enhanced or hindered in any fundamental way by changes to the foreign tax credit. ***Recommendation To Congress:*** The merits of the foreign tax credit should be considered primarily on the basis of achieving tax policy objectives. Since the energy impact of changing the credit is small, the credit should not be manipulated for energy policy reasons only. The credit was neither intended to be used for such purposes, nor is it evident that it is an effective energy policy instrument. If tax policy objectives warrant retaining the credit for the oil industry, Congress should consider selective application of the credit to encourage exploration and production activities in non-OPEC areas.

**113257**

***[Request for Information on the General Accounting Office].*** B-200190. September 3, 1980. 2 pp.
*Letter* to Ken Richards, New Mexico Office of the Attorney General; by Harry R. Van Cleve, Deputy General Counsel, GAO Office of the General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** New Mexico Office of the Attorney General; General Accounting Office.
**Authority:** Budget and Accounting Act, 31 U.S.C. 41. 31 U.S.C. 43.

**113258**

***[Protest of Army Contract Award].*** B-198782. September 9, 1980. 3 pp.
*Decision* re: Martin Marietta Corp.; by Harry R. Van Cleve (for Milton J. Socolar, General Counsel).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Martin Marietta Corp.; Department of the Army.
**Authority:** 4 C.F.R. 20.2(b)(2). D.A.R. 3-508.2(a). B-195624 (1980). B-196552 (1980). B-197697 (1980).
**Abstract:** A firm protested the award of a contract issued by the Army for certain teleprocessing support. The record showed that the protester failed to complete the benchmark demonstration in a timely manner, and the next day was informed by the agency's technical representative that it was disqualified from the competition for its failure to complete the required validation. About 1 month later, the contracting officer sent a notice to the protester confirming its disqualification. The protester contended that: (1) the Army introduced new input data types, two digit weather and terrain codes, at the benchmark demonstration; (2) the two digit codes were not included as representative data in the benchmark package; (3) the new requirement caused it to fail to complete the benchmark demonstration in a timely manner; and (4) the contracting officer's technical representative did not have the authority to disqualify it from the competition so, in essence, the initial adverse agency action was the notice of disqualification from the

contracting officer confirming its disqualification. GAO held that an examination of the record showed no indication that the protester disputed the determination that it failed the benchmark demonstration. Nor was there any evidence indicating that the determination by the agency's technical representative was preliminary, or subject to further study, or undergoing review at higher levels. Thus, after its failure to complete the benchmark demonstration, the protester knew that it was out of competition and the reason why. Accordingly, GAO held that the protest filed more than 1 month after notification of disqualification from competition was untimely filed more than 10 days after the basis for protest was known.

**113259**

***[Protest of Sole-Source Contract Award].*** B-198197. September 9, 1980. 4 pp.

*Decision* re: Dynamics Corp. of America: Fermont Division; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Dynamics Corp. of America: Fermont Division; General Motors Corp.: Detroit Diesel Allison Division, Indianapolis, IN; Department of the Army: Army Mobility Equipment Research and Development Command.
**Authority:** 53 Comp. Gen. 670. B-185582 (1977).
**Abstract:** A firm protested the award of a sole-source contract by the Army. The request for quotations was for the initial production purchase of a quantity of gas-turbine-engine driven generator sets. The protester contended that: (1) the Army's purchase description exceeded the Government's minimum needs and was, therefore, unduly restrictive; (2) the Army did not perform preliminary studies which would have shown that the restrictive purchase description would result in higher initial costs and mission costs than could otherwise be obtained; and (3) its proposed design would meet all the major points of the purchase description with the exception of being diesel powered rather than driven by a gas turbine. However, the Army contended that: (1) the design being advanced by the protester had never been built or tested, so most of its statements in support of its protest were conjecture with no test data to prove the claims; (2) the projected savings alleged by the protester were based on unrealistic cost comparisons since the protester did not know the price offered by the awardee, and the protester was pricing its unbuilt set; and (3) the diesel concept proposed by the protester would have to undergo the same type of development and testing that the gas turbine engine driven generator sets have already undergone which is unacceptable under the present time constraints. GAO held that noncompetitive awards may be made where the minimum needs of the Government can be satisfied by only one firm which could produce the required item without undue technical risk within the required timeframe. In view of the time constraints and the fact that the protester's proposed design had not yet been built or tested, GAO found that the Army had adequately justified its decision to procure the generator sets on a sole-source basis. Accordingly, the protest was denied.

**113260**

***The GAO Review.*** Vol. 15, Issue 3, Summer 1980. 120 pp.
John D. Heller, Editor; Elaine Orr, Assistant Editor. Citations to individual articles appear elsewhere in this issue of GAO Documents.

**Contact:** Office of the Comptroller General.
**Abstract:** This quarterly publication is prepared primarily for use by the staff of the General Accounting Office. Articles in this issue cover such topics as: trends in evaluation, a history of the Claims Division, Civil Service career challenges, automobile safety standards, Hispanic Americans, the General Accounting Office Act of 1980, managing electronic data processing resources, working on a Senate subcommittee, the New York Field Office, alternative mortgage instruments, and audits.

**113261**

***Trends in Evaluation.*** August 1980. 2 pp.
by Keith E. Marvin, Associate Director for Program Evaluation, GAO Program Analysis Division.
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 7-8.

**Contact:** Program Analysis Division.
**Organization Concerned:** Canada; Evaluation Research Society of America.
**Authority:** OMB Circular A-117.
**Abstract:** There are many current signs that evaluation is being institutionalized in all branches of the Government. Similar developments are taking place in other countries. The Government of Canada has established a new office which is a source of evaluation guidance for the various departments. Congress is continuing to move toward enactment of oversight reform measures covering operating programs and regulatory functions of the Federal Government. These measures will require that the various congressional committees establish oversight review plans, leading to a more systematic basis for evaluations to support these oversight reviews. Congressional support agencies, such as GAO, will be directly involved in performing these evaluations and in assisting the committees, on request, with their evaluation and review plans. GAO personnel have met on a number of occasions with personnel of the Canadian Auditor General's Office and the Canadian Comptroller General's Office for an exchange of views on evaluation methods, evaluation training, and the use of evaluation. GAO has been visited by a number of representatives of other foreign governments interested in learning about the development of evaluation methods. A common concern among all of these countries is finding ways to measure the effectiveness of various public programs, and providing information to decisionmakers. The United Nations Joint Inspection Unit has developed a draft "Initial Guidelines for Internal Evaluation Systems of the United Nations Organizations." The Judicial Branch of the U.S. Government is also using evaluation and finding special uses for evaluation methods. The annual program of the Evaluation Research Society will include sessions on courts' use of evaluation methods, as well as the conduct of evaluation, evaluation training, legislative use of evaluation, and accountability of Federal and State agencies.

**113262**

***The New York Region: The Apple Still Shines.*** August 1980. 16 pp.
by William Paller, GAO Field Operations Division: Regional Office (New York); Rudy Plessing, GAO Field Operations Division: Regional Office (New York).
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 9-23.

**Contact:** Field Operations Division: Regional Office (New York).
**Abstract:** There has been a GAO presence in New York for about 30 years, with satellite offices in Syracuse, Schenectady, and Long Island as the workload of the various eras dictated. An Albany sublocation was established in response to the growing emphasis on reviewing grants to States. Dramatic changes have taken place in the work which is done in the region. Over the past several years, the office has been heavily and continuously involved in work dealing with income security, health, law enforcement, energy, environmental problems, mass transit, and manpower and employment training programs. The office has also played a prominent part in monitoring the ability of New York City to repay the Federal loans, the summer program for economically disadvantaged youth, and an assessment of the effect of statehood on Puerto Rico. The regional office has developed an expertise in such support

functions as recruiting, training, and career development. Its 3-year orientation and training program was the first of its kind in GAO. It was also the first regional office to develop a formal and comprehensive staff handbook, collecting and interpreting GAO national policies for regionwide application.

**113263**

***A History of the Claims Division.*** August 1980. 10 pp.
by Eric P. Berezin, Claims Adjudicator, GAO Financial and General Management Studies Division.
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 24-33.

**Contact:** Financial and General Management Studies Division.
**Authority:** Budget and Accounting Act. Dockery Act (Accounting). Claims Collection Act. Government Corporation Control Act (P.L. 79-248).
**Abstract:** One of the most important responsibilities vested in GAO is the settling of claims for and against the U.S. Government. The focus of this work is on overseeing the claims activities in agencies rather than directly handling most of the claims at GAO. Because of this, the Comptroller General made the Claims Division a major component of the Financial and General Management Studies Division, which performs parallel oversight functions for agency accounting systems. The Federal Claims Collection Act allowed the executive agencies either to compromise a settlement or terminate their collection efforts on claims not in excess of $20,000. It was intended that the Act would require the executive agencies to assume more responsibility for their claims. GAO could establish procedures for the agencies to follow. By monitoring the agencies, the Claims Division would be able to detect and eliminate those causes of debts.

**113264**

***Career Challenges in a Changing Civil Service.*** August 1980. 3 pp.
by Elmer B. Staats, Comptroller General.
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 34-36.

**Contact:** Office of the Comptroller General.
**Organization Concerned:** National Civil Service League.
**Authority:** Civil Service Reform Act of 1978.
**Abstract:** The broad civil service reforms in the Civil Service Reform Act of 1978 have focused on the top levels of Government. The Senior Executive Service has been created, and the Merit Pay System will soon go into effect. These reforms are intended to maximize the productivity of Federal workers at all levels of Government. When the Merit Pay System is implemented, employee performance, rather than longevity, will be the determining factor in salary increases. Introduction of the competitive element into the civil service system will have far reaching effects. There will have to be less emphasis on procedure manuals, on dogmas of system and method. Essential disciplines must be maintained, but made more efficient. Public officials will have to see the big picture and the interrelationships between programs. Relations between the Government, industry, and academia must be fostered through reciprocal internships and residencies. Managers of the future must have a keen comprehension of the values and limitations inherent in the use of data, the art of timing its collection, designing investigations, the ethics of reporting and disclosure, and the judgment that interprets the significance of the information and applies it to policymaking. They will have to be at home with theoretical statistics, the rarer altitudes of mathematical science, and grasp the meaning of science and technology.

**113265**

***"Alice Through the Looking Glass," or Trying New Evaluation Techniques.*** August 1980. 5 pp.
by William F. Laurie, GAO Field Operations Division: Regional Office (Detroit).
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 37-41.

**Contact:** Field Operations Division: Regional Office (Detroit).
**Organization Concerned:** Federal Council on Aging.
**Abstract:** In its study of the well-being of older people in Cleveland, Ohio, GAO measured the well-being of older people, observed changes in their well-being over a period of time, quantified the effect of services on their well-being, and estimated the changes in their well-being 20 years into the future. The study was immense and highly complex. The state of the art of evaluation techniques in sociology, gerontology, and medicine were used. The questionnaire used contained questions about an older person's well-being status in five areas of functioning: social, economic, mental, physical, and activities of daily life. Services to older people were defined, measured, and quantified. The personal conditions of people are measurable and are important in determining the effect of existing and proposed services. Applying the same rate of change that was observed in the first year, a 20-year estimate of anticipated problems and conditions of the elderly was derived. Costs of medical care and compensatory help were projected for the next 20 years. This showed that if medical treatment were expanded to all in need, total medical costs over the 20 years would decrease slightly; and the cost of compensatory help would be reduced significantly. Eight reports were issued and three hearings were held on the study. Legislation based on the study is pending before Congress to provide additional health care and home services for older people. The Federal Council on Aging has proposed policy changes concerning the provision of services to the frail elderly. GAO recommended to Congress that a national information system be developed. GAO methodology is being used by other health planning and social services organizations. A long-term care center and a center for gerontology have been established in the Cleveland area, using the results of the study.

**113266**

***Reviewing an Automobile Safety Standard: A Unique Service to the Congress.*** August 1980. 6 pp.
by Frank V. Subalusky, Group Director, GAO Community and Economic Development Division.
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 42-47.

**Contact:** Community and Economic Development Division.
**Organization Concerned:** Department of Transportation; National Highway Traffic Safety Administration.
**Authority:** Highway Safety Act of 1966. Federal Motor Vehicle Safety Standard 110-208.
**Abstract:** Even though Congress had considered and approved the Department of Transportation (DOT) automobile standard calling for the installation of passive restraints (air bags) in all U.S. cars by 1984, GAO reviewed the standard. GAO felt that questions on the issues of effectiveness, cost, and safety had not been answered or supported by realistic data. Evaluators had been looking at the same information and drawing completely different conclusions, leading to great controversy. Those in favor of air bags contended that they will save 9,000 lives a year, will prevent 65,000 injuries, and will cost only about $200, most of which will be offset by insurance premium discounts. Opponents claimed that there is no objective evidence to support the claim that 9,000 lives will be saved each year. They say that the cost of the air bags to the American public will exceed the total cost for all safety features since the Highway Safety Act of 1966. Both proponents and opponents of air bags generally agree that safety belts outperform air bags in virtually all types of accidents. However, only about 14 percent of the drivers use their safety belts. A substantial number of motorists will not have adequate crash protection unless it is provided automatically. Although enforcement of the law through some kind of

sanction appears to be needed to maintain a high level of safety, neither the Federal Government nor States have passed legislation requiring such action. GAO issued a report which found that actual experience with passive restraints needed to be evaluated. Legislation passed in 1980 prohibited the use of funds to implement or enforce any standard or regulation which requires any motor vehicle to be equipped with an occupant restraint system other than a belt system, but permitted the use of funds for research and development relating to occupant restraint systems. This essentially carried out the major recommendations of GAO.

**113267**

***Hispanic Americans--A Profile.*** August 1980. 4 pp.
by Mario Artesiano, Auditor, GAO Field Operations Division: Regional Office (Atlanta).
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 48-51.

**Contact:** Field Operations Division: Regional Office (Atlanta).
**Abstract:** GAO employs Hispanic Americans and works on national issues which affect Hispanics, such as bilingual education. It has a special emphasis program to hire Hispanics, which is not a quota system or job giveaway program, but an outreach effort to get more Hispanics to seek employment with GAO. GAO Hispanic employment is far below the proportion of Hispanics in the population of business graduates. Other Government agencies have been more successful in their efforts to attract Hispanic employees. Recent civil service reform changes in minority recruitment, Equal Employment Opportunity (EEO) rating of managers, and GAO commitment to EEO give reasons for optimism in future improvement. Recent GAO reviews with special relevance for Hispanics have included those on the illegal flow of drugs and people from Mexico, the status of Puerto Rico, and the Panama Canal Treaty. The Hispanic staff, with their unique linguistic and cultural insights, can enrich GAO work in these areas.

**113268**

***The General Accounting Office Act of 1980: The End of a Long Legislative Road.*** August 1980. 9 pp.
by Henry R. Wray, Assistant General Counsel, GAO Office of the General Counsel.
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 52-60.

**Contact:** Office of the General Counsel: Special Studies and Analysis.
**Authority:** General Accounting Office Act of 1980.
**Abstract:** The General Accounting Office Act of 1980 authorizes audits by GAO of unvouchered expenditures; enables GAO to enforce its access to records rights in the courts; imposes requirements on its draft report comment process; provides for enhanced congressional participation in the appointment of the Comptroller and Deputy Comptroller General; and requires certain Executive agency inspectors general to comply with GAO auditing standards. The origins of the Act can be traced back to 1970, and extensive legislative efforts culminated with its enactment. GAO is planning its approach to unvouchered expenditure audits and its procedures to implement the requirements for draft report audits. The procedures concerning the appointment of the Comptroller and Deputy Comptroller General will be invoked shortly. The inspector general provisions are self-executing. As to the enforcement provisions, GAO officials have made it clear throughout the course of the legislation that the judicial remedy should be invoked only as a last resort after reasonable efforts at accomodation have failed. Congress endorsed this approach. The enforcement provisions should prevent many access disputes from ever arising and stimulate the prompt and informal resolution of those disputes which do arise.

**113269**

***The Road to a Billion Dollar Saving: A Team Effort.*** August 1980. 4 pp.
by Steven J. Jue, Management Analyst, GAO Field Operations Division: Regional Office (Seattle).
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 61-64.

**Contact:** Field Operations Division: Regional Office (Seattle).
**Organization Concerned:** Department of the Air Force; General Services Administration.
**Congressional Relevance:** *House* Committee on Government Operations; *Rep.* Jack Brooks.
**Abstract:** The Air Force Phase IV project, to replace current computer systems at Air Force bases around the world at an estimated 20-year cost of $4 billion, is the largest single computer acquisition in Government history. Most of the Air Force bases have two computer systems, one for processing supply applications and one for processing administrative applications. The replacement plan would exchange computers on a one-for-one basis. The House Committee on Government Operations asked GAO to review the project to determine why the Air Force needed to acquire two separate computer systems at each base, why few vendors participated in the competition, and how the Air Force handled unsolicited proposals made by an incumbent vendor before the request for proposals was issued. The audit was made difficult by Air Force opposition to the audit as unnecessary, delays in information, and the advance of the timetable for the committee hearings. GAO testified that it found little justification for two computer systems at most air bases. GAO found that the amount of classified processing was minimal, no Air Force requirement for onsite backup existed, work could be prioritized during increased workload, and conversion to two systems would provide no more flexibility than one The reasons most vendors cited for not bidding on the project were the unnecessary technical restrictions specified in the request for proposals and the Air Force requirements for outdated technology. Also, the Air Force required equipment that was no longer made or was obsolete. GAO recommended that the Air Force cancel the Phase IV request for proposals and issue a new one to increase competition and more accurately reflect actual system user needs. Cost savings were estimated at between $663 million and $1 billion. The Air Force disputed the estimated cost savings as well as the GAO recommendations. The General Services Administration (GSA) suspended the Air Force's authority to acquire the Phase IV equipment pending the completion of a GSA review. The committee adopted all the GAO recommendations. The Secretary of the Air Force agreed to redirect the Phase IV project to satisfy the concerns of GAO and the congressional committee. It will amend the request for proposals, reduce the proposed number of computers, eliminate 250 staff positions, reduce construction, improve current systems processing, and better define its equipment requirements.

**113270**

***A Structure for Managing ADP Resources.*** August 1980. 3 pp.
by Jimmy R. Rose, Supervising Auditor, GAO Field Operations Division: Regional Office (Atlanta), Harold R. Sheely, Management Analyst, GAO Field Operations Division: Regional Office (Atlanta).
In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 65-67.

**Contact:** Field Operations Division: Regional Office (Atlanta).
**Authority:** OMB Circular A-71.
**Abstract:** Automatic data processing (ADP) activities still present major management problems which have resulted, in part, from the lack of an appropriate organizational structure and procedures for managing data processing activities. Top management does not consider information systems as a corporate asset; thus, it does not devote enough attention to managing them as a discrete entity. There is a need for more centralized organization of ADP

activities. Agency ADP systems were designed to accomplish specific tasks in support of an individual group's management responsibilities. This did little to minimize duplication among databases or to ensure that applications were adaptable to the needs of multiple users. Federal agencies are clearly obligated to manage ADP resources efficiently. Effective ADP planning depends on how an agency organizes to accomplish the planning function and how it assigns the responsibilities for planning. A strong central office is needed for such planning. It will function best if it has top management involvement and commitment. A good ADP plan will contain a clear statement of short- and long-term ADP objectives; a concise, well-documented statement of existing and future requirements for computer support; and a sound, management-endorsed strategy for achieving the agency's ADP objectives. Without management controls, an agency could not effectively allocate its ADP resources among the many competing ADP activities of its independent components. Three basic management controls to be applied are a project authorization process, a standard approach to managing the project, and a uniform financial and estimating system.

**113271**

***Playing on Someone Else's Team; or Working on a Senate Subcommittee.*** August 1980. 4 pp.

by William F. Mayo, Supervisory Management Auditor, GAO Field Operations Division: Regional Office (Atlanta).

In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 68-71.

**Contact:** Field Operations Division: Regional Office (Atlanta).
**Organization Concerned:** Bureau of Prisons: U.S. Penitentiary, Atlanta, GA.
**Congressional Relevance:** *Senate* Committee on Governmental Affairs: Permanent Subcommittee on Investigations.
**Abstract:** GAO auditors were detailed to assist the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs in an investigation involving allegations of corruption and improprieties at the Atlanta Penitentiary. The specific allegations under investigation were that corrupt prison employees had smuggled dope to inmates; inmates had been murdered because of lax security, widespread weapon and drug availability, and organized crime influence; employees had converted Government property to personal use; construction/maintenance funds and materials had been misappropriated and diverted to unauthorized purposes; and cases of medical malpractice had occurred. The GAO members examined prison records and interrogated former and current Atlanta penitentiary inmates and employees. Inmates admitted their involvement in drug trafficking within the Penitentiary and named employees who brought contraband to them. The investigation and hearings solved two inmate murders. No evidence was found concerning employees converting Government property to personal use, but conditions and controls over property, materials, and equipment were such that conversion might easily occur. Substantial flaws were found in the Penitentiary's construction and maintenance management systems which allowed officials to divert, misallocate, and misuse funds to office and residence renovations for themselves. Neither Congress nor the Bureau of Prisons had any assurance that funds provided the Atlanta Penitentiary had not resulted in waste, loss, or extravagance. Evidence presented at the hearings substantiated the allegations concerning inmate security, weapons availability, employee corruption, and property and financial management. Bureau of Prisons officials plan to close the Atlanta Penitentiary by 1985.

**113272**

***Who Audits the Auditors?*** August 1980. 3 pp.

by William J. Schad, Assistant Regional Manager, GAO Field Operations Division, Regional Office (Chicago).

In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 72-74.

**Contact:** Field Operations Division: Regional Office (Chicago).
**Authority:** OMB Circular A-102.
**Abstract:** Audit organizations need periodic evaluation to ensure the quality of their audits and maintain the confidence in that quality among program managers, legislators, and other audit groups. The Midwestern Intergovernmental Audit Forum drafted an evaluation guide which included evaluation standards for auditing organizations to meet, accompanied by aids or criteria to help a review team assess compliance. The system included: an overview of the project, a guide containing 52 evaluation standards and aids, bylaws for a managing committee, a scoring and compliance scheme, a report format, a typical engagement letter contracting for the assessment, a review team applicant questionnaire, and a questionnaire and related transmittal letters for audit staff, report users, and auditees. The guide described organizational planning and controls, independence, qualifications, supervision, workpapers, legal and regulatory requirements, internal control, financial audit reports, reporting procedures, and external audits. Intergovernmental cooperation and understanding was essential to the development of this system and to its future success.

**113273**

***Alternative Mortgage Instruments--Their Importance to You.*** August 1980. 6 pp.

by Patrick B. Doerning, GAO Community and Economic Development Division.

In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 75-80.

**Contact:** Community and Economic Development Division.
**Organization Concerned:** Department of Housing and Urban Development.
**Abstract:** An audit effort is planned on the usefulness of alternative mortgage intruments and how these instruments have worked in the marketplace. The Federal Government pioneered in the standard mortgage, which is a fully amortized low downpayment, fixed rate, level payment mortgage instrument. This instrument was designed to operate in a relatively stable economic and financial environment. Since the mid-1960's, the American economy has had periods of high and/or rising interest rates, rapid inflation, and restrictive credit policies. The lack of flexibility in the standard mortgage causes borrowers to experience high monthly mortgage payments relative to their income. The standard mortgage does not take into account the buyer's long-term income expectation or housing needs. The lender experiences problems with the standard mortgage such as earnings do not keep pace with sharp increases in lender's cost of funds, cost of funds decrease the amount of funds available to support the mortgage market, and lenders are unable to pay their depositor the market rate of interest on their deposits. An alternative mortgage plan, the graduated payment mortgage, enables individuals to pay for their homes more easily in the earlier years. The mortgagor borrows additional money during the early years of the mortgage to reduce the monthly mortgage payments during this period. Slightly larger downpayments are required. The variable rate mortgage is now offered which allows the interest rate to change no more than once a year for a maximum of one-half of 1 percent. During the life of the mortgage, the interest rate can increase no more than 2.5 percent. It allows a downward adjustment in the mortgage interest rate without the problem of refinancing, and provides the lender with some interest risk protection. The rollover mortgage is a special case of the variable rate mortgage. Financial institutions can issue bonds, the yield of which determines the interest rate that institutions charge the borrower. The rate may change at the end of each 5-year bond term. Regulations limit the increase in the interest rate for the life of the mortgage to 5 percent. In periods of increasing interest rates, it allows the savings and loan industry to remain competitive with the rest of the money market and allows them to provide funds to new home purchasers.

**113274**

***[Protest of Purchase Order Award].*** B-198913. September 12, 1980. 4 pp.

*Decision* re: Lanier Business Products, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Lanier Business Products, Inc.; Veterans Administration.
**Authority:** B-194477 (1980). B-192308 (1978).
**Abstract:** A firm protested the award to another company of a purchase order for central dictation equipment by the Veterans Administration (VA). The firm contended that it was improper for VA to include telephone charges in the evaluation of quotations. The firm's bid was lowest, only if, with the telephone charges, the useful life of the dictation equipment would be less than 38.4 months. However, the request for quotations (RFQ) did not disclose the useful life of the system to be used for evaluation purposes. The firm also contended that VA should have considered its amended quote, submitted 1 month after the quotation closing date, because it was based on the VA intent to consider life-cycle telephone charges in evaluating proposals. GAO found that, although the RFQ was incomplete because it did not specify the useful life period to be used in determining the effective low bidder, the actual use by VA of a period in excess of 38.4 months was not prejudicial to the protester under the circumstances. Since the RFQ did not contain a late quotations provision, the amended quotation submitted 1 month after the quotation closing date was not eligible for consideration. The protest was denied.

**113275**

***GAO Financial Savings: Defense Audits Lead the Way.*** August 1980. 2 pp.

by Martin M. Ferber, Group Director, GAO Logistics and Communications Division.

In The GAO Review, Vol. 15, Issue 3, Summer 1980, pp. 84-85.

**Contact:** Logistics and Communications Division.
**Organization Concerned:** Department of Defense.
**Congressional Relevance:** *House* Committee on Appropriations; *Rep.* Gerald B. H. Solomon.
**Abstract:** Measurable financial savings resulting from GAO audits for the fiscal years 1976 through 1979 were almost 18 times the GAO operating budget for those years. Most of the financial savings come from defense-related audits. During fiscal years 1978 and 1979, GAO defense-related work accounted for 65 percent of the measurable financial savings, including 51 percent of actual collections. GAO does not make judgments on military strategy and tactics or threat assessment. It must confine judgments to the capability of the military to carry out the strategy and tactics they have decided are required. Solid audit support and constructive audit recommendations are needed to effect improvements. The GAO Logistics and Communications Division also has the responsibility for logistics management, facilities acquisition and management, military readiness, Federal information, and communications.

**113276**

***[Views of GAO on Provisions of S. 3025].*** August 26, 1980. 13 pp.

*Testimony* before the Senate Committee on Governmental Affairs: Governmental Efficiency and the District of Columbia Subcommittee; by Donald L. Scantlebury, Director, GAO Financial and General Management Studies Division.

**Contact:** Financial and General Management Studies Division.
**Organization Concerned:** Department of Justice; Department of the Treasury; Department of State; International Development Cooperation Agency.
**Congressional Relevance:** *Senate* Committee on Governmental Affairs: Governmental Efficiency and the District of Columbia Subcommittee.
**Authority:** P.L. 95-88, S. 3025 (96th Cong.).
**Abstract:** Legislation has been proposed which would establish the Office of Inspector General in the Departments of Justice, Treasury, State, and in the International Development Corporation (IDCA). GAO strongly supported earlier legislation which centralized internal audit and investigative activities under Inspectors General in 15 major departments and agencies, because such legislation : (1) insures that high-level agency attention is given to promoting economy and efficiency and combating fraud, waste, and abuse; (2) provides better assurance that the work of audit and investigative units throughout the Government are coordinated, and (3) insures that both Congress and agency heads receive information on problems involving economy, efficiency, fraud, and abuse. GAO expressed support for the provisions of the bill relating to the establishment of Inspectors General at the Departments of Justice, Treasury, and State. However, it regarded the present establishment of an Office of Inspector General within IDCA as premature, because IDCA was only established in October 1979 and is still experiencing start-up problems. It believed that Congress needed to consider some important issues associated with the IDCA role in development assistance before enacting legislation on this proposal.

**113277**

***[GAO Views on H.R. 7893].*** August 27, 1980. 16 pp.

*Testimony* before the House Committee on Government Operations: Legislation and National Security Subcommittee; by Elmer B. Staats, Comptroller General.

**Contact:** Office of the Comptroller General.
**Organization Concerned:** Department of Defense; Department of Justice; Department of the Treasury; Department of State; International Development Cooperation Agency.
**Congressional Relevance:** *House* Committee on Government Operations: Legislation and National Security Subcommittee.
**Authority:** Executive Order 12066. P.L. 95-88, H.R. 7893 (96th Cong.).
**Abstract:** Legislation has been proposed to establish Offices of Inspector General in the Departments of Defense, Justice, Treasury, and the International Development Corporation Agency (IDCA). GAO strongly supported earlier legislation which centralized internal audit and investigative activities under Inspectors General in 15 major departments and agencies, because such legislation (1) insures that high-level agency attention is given to promoting economy and efficiency and combating fraud, waste, and abuse; (2) provides better assurance that the work of audit and investigative units throughout the Government are coordinated, and (3) insures that both Congress and agency heads receive information on problems involving economy, efficiency, fraud, and abuse. GAO expressed support for the provisions of the proposed legislation relating to the establishment of Inspectors General at the Departments of Justice, Treasury, and State. However, it regarded the present establishment of an Office of Inspector General within IDCA as premature, because IDCA was only established in October 1979 and is still experiencing start-up problems. GAO believed that Congress needs to consider some important issues associated with the IDCA role in development assistance before enacting legislation on this proposal. Regarding the Department of Defense, GAO opposed the use of the term Inspector General, because it has a special military meaning signifying a person primarily interested in military discipline, morale, and welfare problems. It would be less confusing to call the new official the Auditor General. GAO supported the concept of an Auditor

General in the Department of Defense, but believed that the bill should specify that the Auditor General be a civilian. Also, the bill should give the Department of Defense Auditor General the authority to draw upon the services' audit and investigative resources when needed for special Defense-wide reviews.

**113278**

***Human Rights Treaties: Why Don't We Sign?*** June 1980. 2 pp. by Suzanne M. Fishell, Attorney Adviser, GAO Office of the General Counsel.

In The OCG Adviser, Vol. 4, Issue 2, Spring/Summer 1980, pp. 14-15.

**Contact:** Office of the General Counsel: Special Studies and Analysis.

**Organization Concerned:** United Nations; Executive Office of the President.

**Authority:** U.S. Const. amend. I. U.S. Const. art. II, § 2.

**Abstract:** This year may well be the year that the Senate consents to the President's ratification of four human rights treaties. On February 23, 1978, four multilateral treaties concerning basic human rights were sent to the Senate for its advice and consent on ratification. All four had been previously signed on behalf of the United States. Three were negotiated at the United Nations; however, none has been ratified by the United States. The treaties are: The International Convention on the Elimination of All Forms of Racial Discrimination; The International Convention on Economic, Special and Cultural Rights; The International Covenant on Civil and Political Rights; and The American Convention on Human Rights. Although the United States played a central role in the formulation of these treaties, it is one of the few major nations that has not formally become a party to them. Certain provisions of these treaties appear to conflict with U.S. domestic law; for example, the criminal penalties proposed by these treaties could conflict with the right of free speech guaranteed in the Constitution. One option, which the Senate has to harmonize the treaties with the Constitution, is to consent to the treaties with reservation. However, a reservation is a proposal for a treaty different from the agreed upon treaty. If the reservation is not accepted by the other nations concerned, it amounts to a rejection of the revised treaty. Another option would be for the Senate to declare that the treaties are not self-executing. The treaties' substantive provisions would not, of themselves, become effective as U.S. domestic law until a law was passed adopting them. The American Convention of Human Rights raises the abortion issue. Ratification of the treaty with this provision without a reservation would be controversial because U.S. law and policy on this issue is, at the least, unsettled.

**113279**

***[Protest of Agency's Cancellation of Solicitation]***. B-200150. September 10, 1980. 1 p.

*Decision* re: U.S. Eagle, Inc.; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law Control Group.

**Organization Concerned:** U.S. Eagle, Inc.; Department of the Navy.

**Authority:** 4 C.F.R. 20.2(b)(2). B-192180 (1978).

**Abstract:** A firm protested the cancellation of an invitation for bids issued by the Department of the Navy. Protest procedures require that a protest be received within 10 days after its basis is known or should have been known. This protest, filed more than a month after the Navy had notified the protester of the cancellation, was dismissed as untimely.

**113280**

***[Request for Reconsideration]***. B-197854.2, B-199555, B-199556. September 10, 1980. 4 pp.

*Decision* re: Embassy House, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Transportation Law.

**Organization Concerned:** Embassy House, Inc.; Food and Drug Administration; Defense Logistics Agency: Defense Personnel Support Center, Philadelphia, PA; American Tea Association.

**Authority:** Freedom of Information Act (5 U.S.C. 552). 4 C.F.R. 20.9(a). B-196912 (1980).

**Abstract:** A firm requested reconsideration of a decision denying its protest against the award of a contract to supply tea to the Defense Logistics Agency's Defense Personnel Support Center (DPSC). It also protested the award of two other contracts to supply DPSC with tea. In its earlier protest, the firm alleged that the required tea standard and the method of testing tea for conformance with the standard were too subjective. It also contended that the inclusion of members of the Tea Association on the testing panel could have resulted in the testing being biased in favor of a particular Tea Association member. In this respect, a particular test panel will include the Food and Drug Administration's (FDA) Supervisory Tea Examiner, as chairman, and two tea testers from the Tea Association not connected with any prospective bidder. It was held that GAO would not substitute its judgment for that of DPSC with respect to the standard and quality of the tea it required. It could not be concluded that the standard was an unreasonable means for DPSC to purchase tea, because every bidder was required to create a blend of tea which it believed would meet that standard. Since the record showed that the testing method used was the universal practice employed in the buying and selling of tea, it was concluded that the testing procedures safeguarded against bias as much as was practicable. In the request for reconsideration and the newly-filed protests, the firm reiterated the arguments set forth in its first protest. However, the record showed that it filed a request with DPSC under the Freedom of Information Act (FOIA), for the names of the Tea Association members on the three tea testing panels. DPSC did not have that information and forwarded the request to FDA. GAO has no authority under FOIA to determine what information must be released by an agency in response to a request under it. Since the protester failed to demonstrate any error of law or fact, the prior decision was affirmed. The protests against the other DPSC awards, based on the same arguments previously considered and rejected, were summarily denied.

**113281**

***[Protest of Solicitation Cancellation After Bid Opening]***. B-200043. September 10, 1980. 2 pp.

*Decision* re: Joy Manufacturing Co.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.

**Organization Concerned:** Joy Manufacturing Co.; Defense Logistics Agency, Defense Construction Supply Center.

**Authority:** 53 Comp. Gen. 586. 55 Comp. Gen. 1051. 54 Comp. Gen. 237. B-188342 (1977).

**Abstract:** A manufacturing company protested the cancellation of a solicitation for air-powered winches. The solicitation, canceled after bid opening, called for a design using a "positive locking safety dog," not offered by the low bidder. As the second low, responsive bidder, the protester believed it should have received the award, and complained that the agency intended to resolicit its requirement using revised specifications which would permit the use of a winch without the "safety dog" feature. Cancellation of a solicitation after bids have been opened has a potential impact on the competitive bidding system. Therefore, cancellation must be warranted by some cogent and compelling reason. In this case, it was apparent that the alternate approach offered by the low bidder

would meet the Government's actual needs. It was held that it was not for GAO to determine that a requirement permitting a less restrictive automatic brake system to be offered as an alternative approach would be inadequate. Accordingly, the protest was summarily denied.

### 113282

***Extent of Billings by Nonpsychiatric Specialty Physicians for Mental Health Services Under CHAMPUS.*** HRD-80-113; B-200047. September 11, 1980. 2 pp. plus 2 appendices (13 pp.).
*Report* to Sen. Daniel K. Inouye; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Health Programs: Quality Care and Its Assurance (1213).
**Contact:** Human Resources Division.
**Budget Function:** Health: Health Care Services (0551).
**Organization Concerned:** Department of Defense; American Medical Association; American Psychiatric Association.
**Congressional Relevance:** *Sen.* Daniel K. Inouye.
**Abstract:** A Senator requested an indepth study of the state of the art of financing for mental health services provided by four categories of providers. After it had been determined that nonpsychiatric specialty physicians, those physicians with specialties other than psychiatry, were providing 30 to 50 percent of all mental health services, GAO agreed to focus its work on identifying the extent to which those physicians were billing for mental health services. It also agreed to concentrate on the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). ***Findings/Conclusions:*** An analysis of mental health billings processed for CHAMPUS during 3 months in late 1978 showed that nonpsychiatric specialty physicians provided an estimated 4.3 percent of the total mental health services billed; they may be providing additional mental health services, but not billing them as such. Often, when a mental disorder diagnosis was given, the service billed was an office visit. CHAMPUS beneficiaries receiving mental health services from nonpsychiatric specialty physicians were generally treated for a short time. Most patients received services in metropolitan areas, where it might be expected that mental health specialists are practicing. GAO had reservations about the accuracy and completeness of some of the statistical data because of the CHAMPUS inability to extract all of the billing information from its computer tapes. The overall data extracted from the computer tapes had to be adjusted due to many coding errors made by contractors processing claims for CHAMPUS. Both the American Medical Association (AMA) and the American Psychiatric Association (APA) supported nonpsychiatric specialty physicians providing mental health services, because these physicians are often in the best position to diagnose and treat mental problems at an early stage. Because nonpsychiatric specialty physicians lack special training in treating seriously ill mental patients, APA officials had reservations about their treating such patients.

### 113283

***[Foreign Assistance Loan Funds Appropriated by Continuing Resolution].*** B-199966. September 10, 1980. 5 pp.
*Decision* re: Period of Availability of Foreign Assistance Loan Funds Appropriated by Fiscal Year 1980 Continuing Resolution; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: General Government Matters.
**Organization Concerned:** Agency for International Development.
**Authority:** Foreign Assistance Act of 1961. Foreign Assistance and Related Programs Appropriations Act, 1979 (P.L. 95-481, 92 Stat. 1595). H.R. 4473 (96th Cong.). B-194063 (1979). B-163375 (1971). 93 Stat. 923.
**Abstract:** GAO was asked for its opinion on two questions arising under a Joint Resolution making further continuing appropriations for fiscal year 1980 and for other purposes. The questions were whether funds appropriated for foreign economic assistance loans are available beyond the end of fiscal year 1980, and whether the limitation on the percentage of an appropriation which can be obligated in the final month of availability contained in the fiscal year 1979 appropriation act for foreign assistance, applies to funds appropriated by the current continuing resolution. In response, GAO stated that: (1) foreign assistance loan funds appropriated by the continuing resolution are available until September 30, 1981, since the specific designation of a 2-year period of availability of loan funds in the continuing resolution is an exception to the general provision in the resolution that all funds appropriated are available for only 1 year; and (2) the limit on the final month obligations that no more than 15 percent of the amount of the appropriation may be obligated or reserved during the last month of availability applies to foreign assistance funds appropriated for fiscal year 1980 by the continuing resolution.

### 113284

***Oil and Natural Gas From Alaska, Canada, and Mexico--Only Limited Help for U.S.*** EMD-80-72; B-199896. September 11, 1980. 85 pp.
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** International Affairs: Monetary Issues, International Investment, and Other Capital Flows (0606); Energy: Coordination of International Component of U.S. Energy Policy With Domestic Energy Requirements (1613).
**Contact:** Energy and Minerals Division.
**Budget Function:** Energy: Energy Supply (0271).
**Organization Concerned:** Department of Energy; Department of State; Central Intelligence Agency.
**Congressional Relevance:** Congress.
**Authority:** Public Utility Regulatory Policies Act of 1978. Alaska Statehood Act (72 Stat. 339). Alaska Natural Gas Transportation Act of 1976. Natural Gas Policy Act of 1978.
**Abstract:** The United States is 75 percent dependent on oil and natural gas for energy, and import dependency will continue through the 1990's. Estimates of domestic production include projections for Alaska, but because time is needed to issue leases, explore and develop drilling sites, build the transportation systems, and bring production on line, the outlook for increased oil and gas supplies from Alaska is limited, at least through 1985. ***Findings/ Conclusions:*** Supplemental gas from Canada will not significantly help meet U.S. demand and may eventually be cut off because Canada is committed to energy self-reliance, and will make every effort to use or reserve its oil and gas for internal use. Canadian oil and gas will be subject to contracts of 6 years or less and be priced at or above world levels. Mexico will probably be one of the primary sources of oil before the year 2000. The Mexican government has indicated a reference for a conservative production policy based on the perceived ability of the Mexican economy to absorb oil and gas revenues without causing excessive inflation. Also, the contract between the government-owned petroleum monopoly and six U.S. gas companies requires the construction of new pipeline facilities if increased import quantity is negotiated. U.S. policymakers should give careful consideration to the domestic energy policies of Mexico and Canada. Concentrated effort should be made to increase domestic production, including the development of synthetic fuels, and unconventional oil and gas resources. The United States also has to conserve, and to utilize as efficiently as possible its domestic supplies to get through the 1980's and 1990's. The decline in domestic production cannot be offset by synfuels development during the 1980's and 1990's because of lead times and other constraints, but unconventional gas appears to offer more promise, because several technologies are already operational on a commercial basis.

**113285**

***Proposals for Enhancing DOD's Morale, Welfare, and Recreation Construction Program.*** FPCD-80-67; B-199869. August 27, 1980. Released September 11, 1980. 55 pp. plus 2 appendices (9 pp.). *Report* to Rep. Dan Daniel, Chairman, House Committee on Armed Services: Investigations Subcommittee; by Elmer B. Staats, Comptroller General.

**Issue Area:** Personnel Management and Compensation: Morale, Welfare, and Recreation Activities (0312).
**Contact:** Federal Personnel and Compensation Division.
**Budget Function:** National Defense: Defense-Related Activities (0054).
**Organization Concerned:** Department of Defense; Department of the Navy; Department of the Army; Department of the Air Force.
**Congressional Relevance:** *House* Committee on Armed Services: Investigations Subcommittee; *Rep.* Dan Daniel.
**Abstract:** The Department of Defense (DOD) considers morale, welfare, and recreation (MWR) activities important to unit identity and improved readiness of service members. However, the readiness of construction programs for facilities to house activities such as sports, libraries, arts and crafts, and military clubs do not always insure that the most urgent needs of active duty personnel are being met. ***Findings/Conclusions:*** GAO found that the services have been operating under a fiscal environment of escalating construction costs, budgetary constraints, and a large backlog of facility needs which cannot presently be funded. DOD had approved some facility construction projects which were larger than needed, inadequately planned, not adequately documented as to the need, or intended primarily for other than active duty personnel. The need for MWR facilities is particularly important at overseas locations where few recreational opportunities exist in the surrounding community or where the cost of using available facilities is prohibitive. However, the services are directing the major portion of funding emphasis to installations in the continental United States (CONUS). Of $103 million in construction costs in fiscal year 1979, $70 million was spent for construction in CONUS. Strengthening the project planning, review, approval, and funding processes would help insure that projects constructed fulfill the most urgent needs. DOD has initiated recent program improvements. However, the programs still do not insure that: (1) projects developed are the most cost-effective size to meet the needs of active duty personnel; (2) the review and approval processes adequately place priorities and document needs to insure that the most urgent needs are being met with limited construction funds; and (3) funding methodology provides for the most effective and equitable delivery of facilities. ***Recommendation To Agencies:*** The Secretary of Defense should revise guidance on construction criteria about establishing and placing priorities on facility needs, determining optimum facility space requirements, and identifying specifically the population for whom the facilities are intended and insure that each service correctly interprets and implements Defense guidance. The Secretary should direct each of the services to: (1) strengthen its headquarters management involvement in the planning process to assume greater funding responsibility for MWR construction projects and implement a meaningful and equitable system to place priorities on project requests; (2) require the major commands, where applicable, to validate project requests generated by the local installations to insure that such requests will fulfill actual needs and can be relied on by headquarters for their accuracy; (3) require command officials to provide guidance to the installations in formulating requests and visit the facilities and verify that real needs exist; and (4) require installation commanders to document the justification and demonstration of the need for proposed projects.

**113286**

***[Entitlement to Reinstatement of Survivor Benefit Plan Annuity].*** B-197602. September 12, 1980. 3 pp.
*Decision* re: Jean B. Ford; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Air Force: Air Force Accounting and Finance Center: Headquarters.
**Authority:** 54 Comp. Gen. 600. 10 U.S.C. 1450(b). 10 U.S.C. 1447. 10 U.S.C. 1431.
**Abstract:** GAO was asked whether a Survivor Benefit Plan (SBP) beneficiary, whose annuity was terminated as a result of a subsequent marriage, was entitled to have her SBP annuity reinstated effective on the date her subsequent marriage was decreed annulled, or as of the time the annuity was initially discontinued. The applicable law states that an annuity for a widow shall be paid to the widow while the widow is living, or, if the widow remarries before age 60, until the widow remarries. In this case, the beneficiary remarried prior to reaching age 60. The annuity is resumed if the subsequent marriage is terminated by death, annulment, or divorce. The question was whether the legal significance of an annulment operates to void the marriage from its inception, for the purposes of the SBP. The law specifically provides for the reinstatement of the annuity payments on the first day of the month in which the marriage is terminated. Therefore, the beneficiary was entitled to have her SBP annuity reinstated on the first day of the month in which her remarriage was decreed annulled.

**113287**

***[Protest of HHS Contract Award].*** B-198274. September 11, 1980. 7 pp.
*Decision* re: Capitol Systems Group, Inc.; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Department of Health and Human Services; Capitol Systems Group, Inc.; Prospect Associates; National Institutes of Health: National Institute on Aging.
**Authority:** 4 C.F.R. 20.2(b)(1). 4 C.F.R. 20.2(b)(2). 57 Comp. Gen. 140. F.P.R. 1-1.03-2(a). F.P.R. 1-3.802-2. B-193672 (1979). B-196705 (1980).
**Abstract:** A firm protested the award of a contract. The request for proposals was issued as a 100-percent small business set-aside procurement for the National Institute on Aging to support the 1981 White House Conference on Aging. The firm argued that the contract should be terminated because the awardee had been determined to be other than a small business for this procurement; the request for proposals should not have included the alternate late proposal provision; the technical advantage exception of the provision was improperly applied to allow consideration of the late proposal submitted by the awardee; the awardee was in fact a front for a large business; and even if its protest to GAO was untimely, the protest raised a significant issue exception to the timeliness rules. The awardee submitted a late proposal indicating that a firm which had been excluded from consideration because it was determined to be a large business would be a subcontractor. The request for proposals allowed late proposals if they offered significant cost or technical advantages to the Government. The protester protested the awardee's status as a small business because of its affiliation with a firm which had been found to be a large business. A finding by the Small Business Administration (SBA) that the awardee was a small business concern for purposes of this procurement was appealed to the SBA Size Appeals Board, and a decision is pending. GAO did not believe the contract award should be terminated if SBA decides that the awardee is not a small business. GAO could not question the agency's position that any disruption of the contract might seriously impair the agency's ability to perform all the required tasks

before the 1981 conference. All of the other grounds for protest were untimely filed with the GAO office. The matter was not for consideration on the basis that it was a significant issue concerning matters of widespread interest to the procurement community.

**113288**

***[Salary and Responsibilities of Acting Assistant Architect of the Capitol].*** B-199668. September 11, 1980. 4 pp.

*Decision* re: Acting Assistant Architect, Architect of the Capitol; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** Architect of the Capitol.
**Authority:** 55 Comp. Gen. 539. 56 Comp. Gen. 427. 56 Comp. Gen. 432. P.L. 96-146. Coleman v. United States, 100 Ct. Cl. 41 (1943). B-150847 (1975). 40 U.S.C. 163b. 40 U.S.C. 164a. 40 U.S.C. 166b.

**Abstract:** The Architect of the Capitol requested advance decisions on issues relating to the position of Assistant Architect. The current Assistant Architect has been unable to fulfill the duties of his office due to a job-incurred occupational disease. He is in a leave-without-pay status pending a decision on his entitlement to permanent disability compensation. The Director of Architecture has been detailed to the position of Acting Assistant Architect and will be appointed to the permanent position of Assistant Architect as soon as the present Assistant Architect's status is resolved. The Architect raised questions as to the propriety of the appointment and if his rate of compensation can be raised to match that of the Assistant Architect position. GAO found no objection to the appointment of the employee as Acting Assistant Architect, but a person serving under an acting appointment is entitled only to the salary of his permanent office, which is not changed by virtue of an acting appointment. The salary of Assistant Architect is fixed by statute, thus the Acting Assistant Architect may not be paid out of the salaries appropriation, but should continue to be paid from a construction payroll, as he is presently. When the Architect is absent or unable to perform his duties, the Executive Assistant becomes the Acting Architect and is empowered to act as Architect if that official is absent or disabled. The Acting Assistant Architect does not hold the position of Acting Architect and would not be entitled to act as Architect of the Capitol.

**113289**

***[Request for Reimbursement of Telephone Installation and Maintenance].*** B-199793. September 11, 1980. 3 pp.

*Decision* re: Telephone Usage in a Private Residence; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** United States Coast Guard: Seventh District, FL.
**Authority:** 4 Comp. Gen. 891. 21 Comp. Gen. 997. 19 Comp. Dec. 350. B-175732 (1976). 31 U.S.C. 679.

**Abstract:** An authorized certifying officer asked if a District Commander was entitled to be reimbursed for the costs associated with installing and maintaining a telephone in his office at his quarters in order to conduct official business. The District Commander was in charge of the Cuban Refugee Freedom Flotilla, thus he had to be available at all times for daily contact with the local, State, and Federal agencies involved. The extra telephone activity at his residence, due to this assignment, created a burden on his immediate family and the additional telephone was installed to relieve this burden. Regulations prohibit the payment of costs associated with the installation of telephones in private residences by Government employees even though the telephones are extensively used for the transaction of public business. Exceptions have been made only when the private residence in question serves as the only location available for the conduct of official business. Since the District Commander was already provided with an office by the Coast Guard, the relief sought could not be granted. He could not be reimbursed by the Government for the costs associated with installing and maintaining a telephone in his office in his residence in order to carry out his official duties.

**113290**

***[Protest of Default Termination of Contract].*** B-200166. September 11, 1980. 2 pp.

*Decision* re: Enviromarine Systems, Inc., by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Enviromarine Systems, Inc.; National Oceanic and Atmospheric Administration, Department of the Interior; Contract Appeals Board.
**Authority:** B-190074 (1978). B-192985 (1979).

**Abstract:** A firm protested the issuance of an invitation for bids (IFB) by the National Oceanic and Atmospheric Administration (NOAA). The IFB was for a quantity of timers for which the protester previously held a contract. The items produced by the protester were rejected by the Government, and the protester's contract defaulted. The protester has appealed the default determination to the Board of Contract Appeals, and the appeal is currently pending. In its protest to GAO, the protester contended that the reprocurement was unnecessary, redundant, and a waste of Government funds and that NOAA would supply the same faulty artwork to the successful bidder, thereby creating the same situation that now exists. GAO held that the Government has the right to reprocure the items since the Government did not obtain acceptable timers under the protester's contract. Further, the contention that the Government will furnish faulty artwork under the current solicitation, was the same issue before the Board of Contract Appeals and, therefore, not for resolution by GAO. Accordingly, the protest was dismissed.

**113291**

***[Protest of Nonresponsibility Determination].*** B-198923. September 11, 1980. 4 pp.

*Decision* re: Reuben Garment International Co., Inc., by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Reuben Garment International Co., Inc.; Pamlico Canvas Products, Inc.; Department of Defense: Defense Personnel Support Center, Philadelphia, PA.
**Authority:** 53 Comp. Gen. 496. D.A.R. 1-705.4. B-186751 (1976). B-188319 (1977). B-188856 (1977). B-188931 (1977). B-188932 (1977). B-190173 (1978). B-194932 (1979).

**Abstract:** A firm protested the award of a contract for tents issued by the Defense Personnel Support Center (DPSC). DPSC issued the invitation for bids (IFB) as a combined Small Business Labor Surplus Area (LSA) set-aside with a formal portion and an LSA portion. The protester submitted the low bid on the formal portion. A preaward survey assessed the protester's proposal as unsatisfactory and recommended that no award be made to the protester. The contracting officer therefore determined that the protester was a nonresponsible bidder, and referred the issue of responsibility to the Small Business Administration (SBA) for consideration. However, SBA declined to issue a certificate of competency (COC) and the formal portion of the IFB was awarded to another firm. As to the LSA portion of the IFB, the protester requested that DPSC authorize SBA to perform a resurvey enumerating various improvements. DPSC agreed, however, the second preaward survey determined that the protester's production capability, performance record, and ability to meet the required schedule remained

unsatisfactory. The contracting officer again determined that the protester was nonresponsible; and after securing from SBA a confirmation that its declination to issue a COC applied to both the formal and LSA portions of the contract, the contracting officer rejected the protester's offer and made no subsequent referral to SBA. The protester contended that DPSC violated Defense Acquisition Regulations by failing to refer the issue of nonresponsibility to SBA following the protester's submission of new information and the contracting officer's second determination of nonresponsibility. The protester further argued that it did not come forward with certain unspecified new evidence, because it relied on a letter from DPSC which stated that the protester would be allowed to proffer further evidence to SBA prior to award of the LSA portion of the IFB. GAO held that there was no legal obligation on the part of DPSC to request an SBA reconsideration since SBA had already declined to issue a COC on both the formal and LSA portions of the IFB. Additionally, the assertion that the protester was unfairly precluded from submitting relevant information was unsupported by the record. Accordingly, the protest was denied.

**113292**

***[Procedures for Testing Garbage To Be Fed to Swine Need Strengthening].*** September 3, 1980. 5 pp.

*Report* to Harry C. Mussman, Administrator, Animal and Plant Health Inspection Service; by Oliver W. Krueger, Senior Group Director, GAO Community and Economic Development Division.

**Issue Area:** Food: Adaptability of the Food Production System To Maintain Productivity Under Changed Conditions (1728).

**Contact:** Community and Economic Development Division.

**Budget Function:** Agriculture: Agricultural Research and Services (0352).

**Organization Concerned:** Animal and Plant Health Inspection Service.

**Authority:** 9 C.F.R. 76.

**Abstract:** GAO reviewed a portion of the Swine Disease Surveillance Program related to the treatment of garbage to be fed to swine. A primary component of the program is the periodic inspection of garbage-feeding premises to inspect swine for clinical disease signs, check cooking equipment, and check garbage to determine if it has been adequately cooked. The review was directed to provide adequate assurance that garbage fed to swine is being properly cooked each day and not just when inspectors are present. ***Findings/Conclusions:*** The inspectors check garbage-cooking operations primarily by checking the temperature of the garbage that is being cooked at the time of their visits. Garbage is not always being cooked at those times and the temperature check does not provide any assurance of proper cooking when inspectors are not present. Greater assurance of proper garbage cooking could be achieved if the inspectors would make use of the phosphatase field test, a chemical analysis. A major advantage of the test is that it can be made up to 48 hours after the cooking operation, thus, it can be used on an unannounced, after-the-fact basis. ***Recommendation To Agencies:*** The Administrator of the Animal and Plant Health Inspection Service should revise the Service instructions on the inspection of garbage-feeding operations to emphasize the need for the phosphatase field test, provide guidance to Federal and State inspectors on making garbage-feeding premise inspections, and add the controls necessary to assure that the phosphatase field test is used when practical and beneficial. He should also provide inspection personnel with the necessary training and equipment to conduct the phosphatase field test.

**113293**

***[Protest of Agency Failure To Extend Bid Acceptance Period].*** B-199005. September 12, 1980. 3 pp.

*Decision* re: Timberline Foresters; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.

**Organization Concerned:** Timberline Foresters; Forest Service; Kimball Forestry Consultants; Forest Service: Shoshone National Forest, WY.

**Authority:** 4 C.F.R. 20.2. 42 Comp. Gen. 604. 42 Comp. Gen. 607. 48 Comp. Gen. 19. 57 Comp. Gen. 865. 57 Comp. Gen. 867. F.P.R. 1-1.708-2. F.P.R. 1-2.404-1(c). B-193614 (1979). B-194461 (1979). B-195716 (1979). B-197610 (1980).

**Abstract:** A firm protested the Forest Service's failure to request an extension of the acceptance period of its bid and the award of the contract at a higher price. The invitation for bids was a total small business set-aside for timber inventory in three districts of the Shoshone National Forest. The record showed that the protester limited its bid acceptance period to 30 calendar days, as permitted by the solicitation, instead of the standard 60-day acceptance period. Following bid opening, the Forest Service unsuccessfully sought information upon which to make a responsibility determination about the apparent low bidder and later referred the matter to the Small Business Administration (SBA). Meanwhile, the protester's bid expired. Upon advice from SBA that the apparent low bidder had failed to timely apply for a certificate of competency, the Forest Service awarded the contract to another firm, since the protester's bid had expired. The protester contended that it was neither notified that the Forest Service anticipated delay in making the award nor given an opportunity to extend its acceptance period prior to the expiration of its bid. GAO held that the contracting officer was not required to advise the protester of any delay in the award or to request an extension of the acceptance period prior to the expiration of its bid. By limiting its bid acceptance period to 30 days, the protester not only took the risk that the Government might not be able to make award within that time, but also avoided the risk of increased performance costs. The protester's bid could not properly have been extended because that would have afforded the protester an unfair advantage over the other bidders that offered longer acceptance periods. Thus, the protest was without merit and was denied.

**113294**

***Ground Water Overdrafting Must Be Controlled.*** CED-80-96; B-199994. September 12, 1980. 26 pp. plus 7 appendices (26 pp.).

*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Water and Water Related Programs: Ground Water Supply Management and Conservation (2510).

**Contact:** Community and Economic Development Division.

**Budget Function:** Natural Resources and Environment: Water Resources (0301).

**Organization Concerned:** Office of Water Research and Technology; Geological Survey; Department of the Interior; Department of the Army; Department of Agriculture.

**Congressional Relevance:** Congress.

**Abstract:** The demand for water in many areas of the Nation is being met by overdrafting ground water, extracting more ground water than will be replenished over a long period of time. Overdrafting is not necessarily bad; however, if it is continued indefinitely, the resulting problems may ultimately affect the Nation's ability to meet ever-increasing demands for food and other agricultural products. Therefore, GAO undertook a review of the numerous problems associated with ground water overdrafting to determine the seriousness of the overdrafting problems in States and communities that have not implemented ground water controls. ***Findings/Conclusions:*** In its review, GAO found that overdrafting is most serious in the arid and semiarid Western States where irrigation of crops accounts for over half of all ground water use. GAO found that several problems can result from

overdrafting, such as: (1) land subsidence; (2) saltwater intrusion into freshwater aquifers; (3) reduced surface water flows; (4) increased energy consumption; and (5) disruption of social and economic activities. Some States, such as Colorado, New Mexico, and Florida, have generally succeeded in controlling overdraft of their underground aquifers. However, other States, such as California and Arizona, currently impose little if any control on the use of ground water; and both States suffer serious overdraft problems. Although the Federal Government only manages water resources on Federal lands, it has assisted States with overdraft problems by constructing multipurpose water development projects to replace or supplement ground water. ***Recommendation To Congress:*** Congress should direct the Departments of the Interior, Agriculture, and the Army to require, before start of construction on any water resources or ground water depletion mitigation project, that the affected State or community implement or have specific plans to implement a program or some means for controlling ground water pumping and a water conservation program.

**113295**

***[Protest of Contract Award by Awardee].*** B-200057. September 15, 1980. 3 pp.

*Decision* re: Big Lost; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Big Lost; Forest Service: Gallatin National Forest, Bozeman, MT.
**Authority:** 4 C.F.R. 20. 49 Comp. Gen. 761. 58 Comp. Gen. 214. B-194554 (1979). B-192512 (1978).
**Abstract:** A firm protested the award of a contract to them on the grounds that it was not competent to perform and would suffer financial losses. A site inspection was made after the award of the contract, at which time the firm decided it was not competent. An award of a contract cannot be set aside at the insistence of the contractor on the grounds that it was not entitled to the award since it was nonresponsible. These are grounds available to those injured by award action, not to the party which benefits by it. Prebid site inspection serves to warn bidders of conditions which could affect performance and performance cost. The bidder who fails to make an inspection assumes the risk thereof. Objection to an agency's affirmative determination of responsibility is not reviewed by GAO, except in limited circumstances not present. Accordingly, the protest was summarily denied.

**113296**

***[Protest of GSA Settlement Action].*** B-197298. September 12, 1980. 5 pp.

*Decision* re: Yellow Freight System, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Transportation Law.
**Organization Concerned:** Yellow Freight System, Inc.; General Services Administration.
**Authority:** 4 C.F.R. 53. 52 Comp. Gen. 211. Navajo Freight Lines v. United States, 176 Ct. Cl. 1265 (1966). Fedders-Quigan Corp. v. Long Transportation Co., 64 M.C.C. 581 (1955). United States v. Gulf Refining Co., 286 U.S. 542 (1925). Buch Express, Inc. v. United States, 132 F. Supp. 473 (Ct. Cl. 1955). B-192872 (1979). B-192856 (1979). 49 U.S.C. 66(a)(b).
**Abstract:** A firm requested a review of a deduction action taken by the General Services Administration (GSA) to recover overcharges from freight charges otherwise due to the carrier. The carrier billed the agency for a shipment of containers, and was paid upon presentation (without audit). Two years later, however, while the bill was being audited, it was determined that the Government bill of lading (GBL) description of the containers was insufficient. Because of this indefinite description, the application of two classification rates was possible. The firm had billed GSA for the higher rated classification. From additional information obtained by GSA, it believed that the lower rate was applicable and initiated overcharge deduction action. In the firm's view, it was the shipper's responsibility upon audit of the carrier's bills to present documentary and other evidence supporting the specific classification description furnished by the agency. The firm further contended that in the absence of evidence contrary to the original GBL description, the latter was controlling. GAO held that the rule placing the burden on the shipper to present clear and convincing contrary evidence applies only where the shipper alleges that the GBL erroneously described the article in terms of a specific classification description, and the GBL failed to give notice to the carrier of the error. Regardless of which party prepares the GBL, it is the duty of the carrier's agent to ensure that it is correct in all material respects. GAO did not see unfairness or impracticality in requiring the carrier at the time of the audit to establish the true description of the article, because the carrier had knowledge at the time of shipment that the GBL contained no specific classification description of the article. Without it, the carrier could not perform its duty to assess only the applicable rate. The firm failed to present any evidence of the physical characteristics of the containers. Accordingly, the GSA settlement was not shown to be incorrect and was sustained.

**113297**

***Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions.*** GGD-80-92; B-199048. September 12, 1980. 20 pp. plus 1 appendix (2 pp.).

*Report* to Benjamin R. Civiletti, Attorney General, Department of Justice; G. William Miller, Secretary, Department of the Treasury; by William J. Anderson, Director, GAO General Government Division.

**Issue Area:** Law Enforcement and Crime Prevention (0500).
**Contact:** General Government Division.
**Budget Function:** Administration of Justice: Federal Law Enforcement Activities (0751).
**Organization Concerned:** Federal Bureau of Investigation; Department of Justice; Drug Enforcement Administration; Department of the Treasury; Bureau of Alcohol, Tobacco and Firearms; Law Enforcement Assistance Administration.
**Abstract:** The Government provides free crime laboratory services to State and local law enforcement agencies, a practice which is in direct conflict with the Federal policy of encouraging States and localities to develop their own capabilities and decrease their reliance on Federal laboratories. GAO reviewed the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, and Firearms crime laboratories which provide direct support to the agencies' missions and also provide evidence examinations to State and local law enforcement agencies. Restricted budgets have forced two of the agencies to curtail some services previously provided, and reductions in services of all three laboratories are likely. ***Findings/Conclusions:*** A clear, coordinated strategy is needed to properly focus and balance Federal efforts to reduce Federal outlays and to encourage the development of independent State and local laboratories. A majority of the analyses performed were within the State and local laboratories' technical capabilities. More often than not, inadequate resources have detrimentally affected State and local laboratories. Continued availability of free Federal laboratory services will only serve to postpone actions needed at the State and local level to improve the quality and quantity of laboratory services. A clear Federal policy and a plan for achieving a phased reduction is needed to allow State and local jurisdictions time to prepare for the increased workload that the reduction of Federal services will cause. ***Recommendation To Agencies:*** The Attorney General and the Secretary of the Treasury should require the Federal Bureau of

Investigation, Drug Enforcement Administration, and Bureau of Alcohol, Tobacco, and Firearms crime laboratory directors to develop a coordinated plan providing for a phased reduction in Federal crime laboratory assistance to State and local law enforcement agencies. Such a plan should provide a time schedule which will enable the States to prepare for the phased reduction in Federal laboatory assistance; discontinue the practice of accepting routine requests from local law enforcement agencies, thereby bypassing laboratories where the capability exists or should be developed; and define the complex or sophisticated analyses which the Federal laboratories should continue to perform.

**113298**

***Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities in Alaska.*** LCD-80-96; B-196565. September 12, 1980. 22 pp.

*Report* to Harold Brown, Secretary, Department of Defense; Neil E. Goldschmidt, Secretary, Department of the Treasury; Cecil D. Andrus, Secretary, Department of the Interior; by Richard W. Gutmann, Director, GAO Logistics and Communications Division.

**Issue Area:** Facilities and Material Management: Effectiveness of Policies, Procedures and Practices for Identifying/Disposing of Surplus Property (0715); Land Use Planning and Control: Non-Line-of-Effort Assignments (2351).

**Contact:** Logistics and Communications Division.

**Budget Function:** General Government: General Property and Records Management (0804).

**Organization Concerned:** Department of the Interior; Department of the Treasury; Department of Transportation; Department of Defense; Bureau of Land Management; General Services Administration; Department of the Air Force; Department of the Army; Federal Aviation Administration; United States Coast Guard.

**Authority:** Alaska Native Claims Settlement Act. Federal Management Circular 73-5.

**Abstract:** Federal agencies have not protected and maintained facilities which they have built on lands withdrawn from the public domain in Alaska and no longer need. Long delays in the disposal process and the lack of protection have allowed property improvements to suffer extensive deterioration and vandalism. The Bureau of Land Management determines if the land is suitable for return to the public domain. If it has been changed substantially by improvements, the Bureau requests the General Services Administration (GSA) to dispose of the property. GAO reviewed five cases with improvements costing over $23 million. ***Findings/Conclusions:*** Some deteriorated facilities have become safety and health hazards and continually project an image of Government waste. GAO found that the facilities had been extensively damaged by vandals and the elements. Untimely actions by the holding agencies and the Bureau delay the disposal of excess properties. Some agencies have abandoned properties before reporting them as excess, and others have taken years to decide whether properties not in use should be declared excess. The Bureau has not actively pursued the processing of property disposals, as their resources are allocated to the problems of conveying lands to native Alaskans and to the State of Alaska. GAO believes that a major factor contributing to delays in the disposal process is a lack of incentives to ensure timely action. Bureau regulations do not require that disposals be completed within a specified time, and the Bureau is not responsible for protecting and maintaining property when delays occur. The cost of protecting excess properties may be prohibitive, unnecessary, and a burden on the holding agency. In such cases, the property should be destroyed according to regulations. ***Recommendation To Agencies:*** The Secretaries of Defense and Transportation should require their agencies in Alaska to determine the condition of current and future excess properties under their jurisdiction and comply with the Federal Property Management Regulations by protecting and maintaining properties pending transfer to another agency or disposal. They should destroy properties having no commercial value and properties where the estimated cost of continuing protection and maintenance will exceed the estimated proceeds from their sale. They should not abandon the properties. The Secretaries should promptly notify the Bureau when property is going to be excess, and when they will excess the property. The Secretary of the Interior should require the Bureau of Land Management to establish and follow a specified time schedule for determining whether excess property should be returned to the public domain or transferred to GSA for disposal.

**113299**

***[Performance Appraisal System Manual: Behaviorally Anchored Rating Scales].*** August 1980. 46 pp. plus 1 appendix (14 pp.).

**Contact:** Office of Personnel Development and Services.

**Abstract:** The Performance Appraisal System Manual includes: (1) a history of the system; (2) an overview of the system; (3) the appraisal process; (4) the task standards; (5) the performance standards; (6) the assessment guides; (7) the preparation of the end-of-assignment performance appraisal; and (8) the method of how to prepare an effective appraisal.

**113300**

***[Review of Selected Aspects of Low Income Energy Assistance].*** HRD-80-115; B-198839. September 15, 1980. 3 pp. plus 1 enclosure (8 pp.).

*Report* to Sen. Jesse A. Helms; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Income Security and Social Services: Eligibility Determinations (1307); Income Security and Social Services: Payment Processes (1309); Energy: Non-Line-of-Effort Assignments (1651).

**Contact:** Human Resources Division.

**Budget Function:** Income Security: Public Assistance and Other Income Supplements (0604).

**Organization Concerned:** Department of Health and Human Services.

**Congressional Relevance:** *Sen.* Jesse A. Helms.

**Authority:** Home Energy Assistance Act of 1980 (P.L. 96-223). P.L. 96-126.

**Abstract:** GAO reviewed the 1980 Low Income Energy Assistance (LIEA) Program, and examined those Aid to Families With Dependent Children (AFDC) recipients who were financially assisted even though they did not pay fuel bills. The North Carolina LIEA program was also examined, with particular emphasis on energy assistance payments to AFDC recipients in public housing and payments to Supplemental Security Income (SSI) recipients. ***Findings/Conclusions:*** GAO found that in North Carolina about 86 percent of the State's $16.1 million energy assistance program was used to pay AFDC recipients. Payments made to AFDC recipients were based on family size but did not consider responsibility for energy costs. GAO contacted the largest housing authority in North Carolina and determined that about 30 percent of its subsidized housing units included one or more AFDC recipients. The 1980 LIEA program also established categorical eligibility for SSI recipients. Payments were made to SSI recipients without regard to their living arrangements or responsibilities for energy costs. Energy assistance payments were made to: (1) more than one individual living at the same residence; (2) individuals living in subsidized housing who were not responsible for home heating costs; and (3) individuals in certain group living facilities where the extent of increased energy costs for heating, or their responsibility for these costs, was not clear. The recently enacted 1981 LIEA program and regulations published by the Department of Health and Human Services (HHS) address most of the problems under the 1980

program. The 1981 program will be administered by States according to their plan, as approved by HHS. Payments can only be made to, or on behalf of, eligible households rather than individuals, to offset the rising costs of home energy that are excessive in relation to household income.

**113301**

***[Review of Selected Aspects of Low Income Energy Assistance].*** HRD-80-118; B-198839. September 15, 1980. 3 pp. plus 1 enclosure (8 pp.).

*Report* to Rep. Don Ritter; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Income Security and Social Services: Eligibility Determinations (1307); Income Security and Social Services: Payment Processes (1309); Energy: Non-Line-of-Effort Assignments (1651).
**Contact:** Human Resources Division.
**Budget Function:** Income Security: Public Assistance and Other Income Supplements (0604).
**Organization Concerned:** Department of Health and Human Services.
**Congressional Relevance:** *Rep.* Don Ritter.
**Authority:** Home Energy Assistance Act of 1980 (P.L. 96-223). P.L. 96-126.
**Abstract:** GAO reviewed the 1980 Low Income Energy Assistance (LIEA) Program, and examined those Aid to Families With Dependent Children (AFDC) recipients who were financially assisted even though they did not pay fuel bills. The North Carolina LIEA program was also examined, with particular emphasis on energy assistance payments to AFDC recipients in public housing and payments to Supplemental Security Income (SSI) recipients. ***Findings/Conclusions:*** GAO found that in North Carolina about 86 percent of the State's $16.1 million energy assistance program was used to pay AFDC recipients. Payments made to AFDC recipients were based on family size but did not consider responsibility for energy costs. GAO contacted the largest housing authority in North Carolina and determined that about 30 percent of its subsidized housing units included one or more AFDC recipients. The 1980 LIEA program also established categorical eligibility for SSI recipients. Payments were made to SSI recipients without regard to their living arrangements or responsibilities for energy costs. Energy assistance payments were made to: (1) more than one individual living at the same residence; (2) individuals living in subsidized housing who were not responsible for home heating costs; and (3) individuals in certain group living facilities where the extent of increased energy costs for heating, or their responsibility for these costs, was not clear. The recently enacted 1981 LIEA program and regulations published by the Department of Health and Human Services (HHS) address most of the problems under the 1980 program. The 1981 program will be administered by States according to their plan, as approved by HHS. Payments can only be made to, or on behalf of, eligible households rather than individuals, to offset the rising costs of home energy that are excessive in relation to household income.

**113302**

***[Review of Selected Aspects of Low Income Energy Assistance].*** HRD-80-119; B-198839. September 15, 1980. 3 pp. plus 1 enclosure (8 pp.).

*Report* to Rep. Robert H. Michel; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Income Security and Social Services: Eligibility Determinations (1307); Income Security and Social Services: Payment Processes (1309); Energy: Non-Line-of-Effort Assignments (1651).
**Contact:** Human Resources Division.
**Budget Function:** Income Security: Public Assistance and Other Income Supplements (0604).
**Organization Concerned:** Department of Health and Human Services.
**Congressional Relevance:** *Rep.* Robert H. Michel.
**Authority:** Home Energy Assistance Act of 1980 (P.L. 96-223). P.L. 96-126.
**Abstract:** GAO reviewed the 1980 Low Income Energy Assistance (LIEA) Program, and examined those Aid to Families With Dependent Children (AFDC) recipients who were financially assisted even though they did not pay fuel bills. The North Carolina LIEA program was also examined, with particular emphasis on energy assistance payments to AFDC recipients in public housing and payments to Supplemental Security Income (SSI) recipients. ***Findings/Conclusions:*** GAO found that in North Carolina about 86 percent of the State's $16.1 million energy assistance program was used to pay AFDC recipients. Payments made to AFDC recipients were based on family size but did not consider responsibility for energy costs. GAO contacted the largest housing authority in North Carolina and determined that about 30 percent of its subsidized housing units included one or more AFDC recipients. The 1980 LIEA program also established categorical eligibility for SSI recipients. Payments were made to SSI recipients without regard to their living arrangements or responsibilities for energy costs. Energy assistance payments were made to: (1) more than one individual living at the same residence; (2) individuals living in subsidized housing who were not responsible for home heating costs; and (3) individuals in certain group living facilities where the extent of increased energy costs for heating, or their responsibility for these costs, was not clear. The recently enacted 1981 LIEA program and regulations published by the Department of Health and Human Services (HHS) address most of the problems under the 1980 program. The 1981 program will be administered by States according to their plan, as approved by HHS. Payments can only be made to, or on behalf of, eligible households rather than individuals, to offset the rising costs of home energy that are excessive in relation to household income.

**113303**

***[Review of Selected Aspects of Low Income Energy Assistance].*** HRD-80-120; B-198839. September 15, 1980. 3 pp. plus 1 enclosure (8 pp.).

*Report* to Rep. Willis D. Gradison, Jr.; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Income Security and Social Services: Eligibility Determinations (1307); Income Security and Social Services: Payment Processes (1309); Energy: Non-Line-of-Effort Assignments (1651).
**Contact:** Human Resources Division.
**Budget Function:** Income Security: Public Assistance and Other Income Supplements (0604).
**Organization Concerned:** Department of Health and Human Services.
**Congressional Relevance:** *Rep.* Willis D. Gradison, Jr.
**Authority:** Home Energy Assistance Act of 1980 (P.L. 96-223). P.L. 96-126.
**Abstract:** GAO reviewed the 1980 Low Income Energy Assistance (LIEA) Program, and examined those Aid to Families With Dependent Children (AFDC) recipients who were financially assisted even though they did not pay fuel bills. The North Carolina LIEA program was also examined, with particular emphasis on energy assistance payments to AFDC recipients in public housing and payments to Supplemental Security Income (SSI) recipients. ***Findings/Conclusions:*** GAO found that in North Carolina about 86 percent of the State's $16.1 million energy assistance program was used to pay AFDC recipients. Payments made to AFDC recipients were based on family size but did not consider responsibility for energy costs. GAO contacted the largest housing authority in North Carolina and determined that about 30 percent of its

subsidized housing units included one or more AFDC recipients. The 1980 LIEA program also established categorical eligibility for SSI recipients. Payments were made to SSI recipients without regard to their living arrangements or responsibilities for energy costs. Energy assistance payments were made to: (1) more than one individual living at the same residence; (2) individuals living in subsidized housing who were not responsible for home heating costs; and (3) individuals in certain group living facilities where the extent of increased energy costs for heating, or their responsibility for these costs, was not clear. The recently enacted 1981 LIEA program and regulations published by the Department of Health and Human Services (HHS) address most of the problems under the 1980 program. The 1981 program will be administered by States according to their plan, as approved by HHS. Payments can only be made to, or on behalf of, eligible households rather than individuals, to offset the rising costs of home energy that are excessive in relation to household income.

**113304**

***[Review of Selected Aspects of Low Income Energy Assistance].*** HRD-80-121; B-198839. September 15, 1980. 3 pp. plus 1 enclosure (8 pp.).

*Report* to Rep. John B. Anderson; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Income Security and Social Services: Eligibility Determinations (1307); Income Security and Social Services: Payment Processes (1309); Energy: Non-Line-of-Effort Assignments (1651).
**Contact:** Human Resources Division.
**Budget Function:** Income Security: Public Assistance and Other Income Supplements (0604).
**Organization Concerned:** Department of Health and Human Services.
**Congressional Relevance:** *Rep.* John B. Anderson.
**Authority:** Home Energy Assistance Act of 1980 (P.L. 96-223). P.L. 96-126.
**Abstract:** GAO reviewed the 1980 Low Income Energy Assistance (LIEA) Program, and examined those Aid to Families With Dependent Children (AFDC) recipients who were financially assisted even though they did not pay fuel bills. The North Carolina LIEA program was also examined, with particular emphasis on energy assistance payments to AFDC recipients in public housing and payments to Supplemental Security Income (SSI) recipients. ***Findings/Conclusions:*** GAO found that in North Carolina about 86 percent of the State's $16.1 million energy assistance program was used to pay AFDC recipients. Payments made to AFDC recipients were based on family size but did not consider responsibility for energy costs. GAO contacted the largest housing authority in North Carolina and determined that about 30 percent of its subsidized housing units included one or more AFDC recipients. The 1980 LIEA program also established categorical eligibility for SSI recipients. Payments were made to SSI recipients without regard to their living arrangements or responsibilities for energy costs. Energy assistance payments were made to: (1) more than one individual living at the same residence; (2) individuals living in subsidized housing who were not responsible for home heating costs; and (3) individuals in certain group living facilities where the extent of increased energy costs for heating, or their responsibility for these costs, was not clear. The recently enacted 1981 LIEA program and regulations published by the Department of Health and Human Services (HHS) address most of the problems under the 1980 program. The 1981 program will be administered by States according to their plan, as approved by HHS. Payments can only be made to, or on behalf of, eligible households rather than individuals, to offset the rising costs of home energy that are excessive in relation to household income.

**113305**

***[Review of Selected Aspects of Low Income Energy Assistance].*** HRD-80-122; B-198839. September 15, 1980. 3 pp. plus 1 enclosure (8 pp.).

*Report* to Sen. Gaylord Nelson; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Income Security and Social Services: Eligibility Determinations (1307); Income Security and Social Services: Payment Processes (1309); Energy: Non-Line-of-Effort Assignments (1651).
**Contact:** Human Resources Division.
**Budget Function:** Income Security: Public Assistance and Other Income Supplements (0604).
**Organization Concerned:** Department of Health and Human Services.
**Congressional Relevance:** *Sen.* Gaylord Nelson.
**Authority:** Home Energy Assistance Act of 1980 (P.L. 96-223). P.L. 96-126.
**Abstract:** GAO reviewed the 1980 Low Income Energy Assistance (LIEA) Program, and examined those Aid to Families With Dependent Children (AFDC) recipients who were financially assisted even though they did not pay fuel bills. The North Carolina LIEA program was also examined, with particular emphasis on energy assistance payments to AFDC recipients in public housing and payments to Supplemental Security Income (SSI) recipients. ***Findings/Conclusions:*** GAO found that in North Carolina about 86 percent of the State's $16.1 million energy assistance program was used to pay AFDC recipients. Payments made to AFDC recipients were based on family size but did not consider responsibility for energy costs. GAO contacted the largest housing authority in North Carolina and determined that about 30 percent of its subsidized housing units included one or more AFDC recipients. The 1980 LIEA program also established categorical eligibility for SSI recipients. Payments were made to SSI recipients without regard to their living arrangements or responsibilities for energy costs. Energy assistance payments were made to: (1) more than one individual living at the same residence; (2) individuals living in subsidized housing who were not responsible for home heating costs; and (3) individuals in certain group living facilities where the extent of increased energy costs for heating, or their responsibility for these costs, was not clear. The recently enacted 1981 LIEA program and regulations published by the Department of Health and Human Services (HHS) address most of the problems under the 1980 program. The 1981 program will be administered by States according to their plan, as approved by HHS. Payments can only be made to, or on behalf of, eligible households rather than individuals, to offset the rising costs of home energy that are excessive in relation to household income.

**113306**

***[Review of Selected Aspects of Low Income Energy Assistance].*** HRD-80-123; B-198839. September 15, 1980. 3 pp. plus 1 enclosure (8 pp.).

*Report* to Rep. Virginia Smith; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Income Security and Social Services: Eligibility Determinations (1307); Income Security and Social Services: Payment Processes (1309); Energy: Non-Line-of-Effort Assignments (1651).
**Contact:** Human Resources Division.
**Budget Function:** Income Security: Public Assistance and Other Income Supplements (0604).
**Organization Concerned:** Department of Health and Human Services.
**Congressional Relevance:** *Rep.* Virginia Smith.
**Authority:** Home Energy Assistance Act of 1980 (P.L. 96-223). P.L. 96-126.
**Abstract:** GAO reviewed the 1980 Low Income Energy Assistance

(LIEA) Program, and examined those Aid to Families With Dependent Children (AFDC) recipients who were financially assisted even though they did not pay fuel bills. The North Carolina LIEA program was also examined, with particular emphasis on energy assistance payments to AFDC recipients in public housing and payments to Supplemental Security Income (SSI) recipients. ***Findings/Conclusions:*** GAO found that in North Carolina about 86 percent of the State's $16.1 million energy assistance program was used to pay AFDC recipients. Payments made to AFDC recipients were based on family size but did not consider responsibility for energy costs. GAO contacted the largest housing authority in North Carolina and determined that about 30 percent of its subsidized housing units included one or more AFDC recipients. The 1980 LIEA program also established categorical eligibility for SSI recipients. Payments were made to SSI recipients without regard to their living arrangements or responsibilities for energy costs. Energy assistance payments were made to: (1) more than one individual living at the same residence; (2) individuals living in subsidized housing who were not responsible for home heating costs; and (3) individuals in certain group living facilities where the extent of increased energy costs for heating, or their responsibility for these costs, was not clear. The recently enacted 1981 LIEA program and regulations published by the Department of Health and Human Services (HHS) address most of the problems under the 1980 program. The 1981 program will be administered by States according to their plan, as approved by HHS. Payments can only be made to, or on behalf of, eligible households rather than individuals, to offset the rising costs of home energy that are excessive in relation to household income.

**113307**

***[Proposed Interim Consolidation of the Nuclear Regulatory Commission].*** EMD-80-118; B-200163. September 11, 1980. 5 pp. plus 2 enclosures (12 pp.).

*Report* to Sen. Warren G. Magnuson, Chairman, Senate Committee on Appropriations; Rep. Jamie L. Whitten, Chairman, House Committee on Appropriations; by Elmer B. Staats, Comptroller General.

**Issue Area:** Facilities and Material Management: The Government's Policy With Respect to the Locations of Space Acquisition (0752); Energy: Non-Line-of-Effort Assignments (1651).

**Contact:** Energy and Minerals Division.

**Budget Function:** Energy: Energy Information, Policy, and Regulation (0276).

**Organization Concerned:** Nuclear Regulatory Commission; General Services Administration.

**Congressional Relevance:** *House* Committee on Appropriations; *Senate* Committee on Appropriations; *Rep.* Jamie L. Whitten; *Sen.* Warren G. Magnuson.

**Abstract:** GAO was required to review the proposed Nuclear Regulatory Commission (NRC) interim consolidation plan, and to identify and evaluate other options. An interim consolidation is planned pending completion of a permanent facility of sufficient size. NRC is presently housed in eight buildings in four geographic locations in Washington, D.C., and Montgomery County, Maryland. The NRC proposed interim consolidation entails relocating about 1200 employees from Montgomery County to Washington, D.C., and consolidating the remaining employees in Bethesda, Maryland. Employees of eight Federal agencies would be relocated to the space vacated by NRC. The proposed plan would put senior agency management and the major regulatory offices in the same building and put the agency's research and standards development offices close together. ***Findings/Conclusions:*** Some disadvantages of the NRC plan are: (1) high cost; (2) the staff of some organizational units would be split up; (3) many Federal agencies being moved will not backfill space vacated by NRC; and (4) the lease on the Washington, D.C., building has expired with no immediate prospects for renewal. The only other practical option for interim consolidation is to move the five Commissioners and their staff to Bethesda, and make room for them by relocating other NRC employees to the Washington, D.C., location. This option is much less costly to implement, and it would accomplish the same basic objectives of the proposed plan. Which interim consolidation would prove more effective from a management standpoint involves many subjective judgments and cannot be clearly evaluated. Neither option is satisfactory as more than an interim step, pending congressional approval, funding, and GSA construction of a facility large enough for the entire agency.

**113308**

***[Interagency Advisory Group for Personnel Policy and Operations].*** FPCD-80-77; B-200276. September 15, 1980. 5 pp.

*Report* to Alan K. Campbell, Director, Office of Personnel Management; by Hyman L. Krieger, Director, GAO Federal Personnel and Compensation Division.

**Issue Area:** Personnel Management and Compensation: Civil Service Reorganization and Reform Implementation (0319).

**Contact:** Federal Personnel and Compensation Division.

**Budget Function:** General Government: Central Personnel Management (0805).

**Organization Concerned:** Office of Management and Budget; Office of Personnel Management: Office of Planning and Evaluation: Interagency Advisory Group.

**Congressional Relevance:** *House* Committee on Appropriations; *House* Committee on Post Office and Civil Service; *House* Committee on Government Operations; *Senate* Committee on Governmental Affairs; *Senate* Committee on Appropriations.

**Authority:** Civil Service Reform Act of 1978. Reorg. Plan No. 2 of 1978.

**Abstract:** Since implementation of the Civil Service Reform Act in 1979, the relationship between the new Office of Personnel Management (OPM) and agency personnel staffs has been fundamentally altered. Accordingly, the Interagency Advisory Group (IAG) was restructured to reflect this changed relationship. IAG was, and is, an excellent forum for regular communication from the agency personnel directors to OPM, as well as a network for personnel directors. The current structure of IAG attempts to provide a forum for personnel directors to discuss: (1) policy issues of broad significance relating to work force productivity, effectiveness, and accountability; (2) proposed legislation and executive initiatives concerning recruitment and management issues; and (3) program improvements especially in relation to deregulation of authority. IAG members are organized into five major "community of interest" subgroups. The Executive Committee serves as the IAG steering committee and sets yearly objectives. Specific programs and technical issues are studied by IAG program committees, which report to both IAG and OPM. OPM has tried in a variety of ways to make IAG a dynamic organization responsive to recent changes in legislation. ***Findings/Conclusions:*** IAG should be relocated from the Office of Planning and Evaluation (OPE), where it is housed, to the Agency Relations Group. OPE could continue providing the necessary white papers to IAG. By locating IAG in the Agency Relations Group, the policy development functions would not be lost; rather, IAG would be unified with its mission subgroup directors and the agency officers who have daily contact with agencies. This would achieve a better functional fit. The IAG Executive Committee should include the Associate Director for Agency Relations and the four Assistant Directors of the community of interest groups as ex-officio members. This would help communication and coordination and provide incentives for more active involvement of the Assistant Directors. Further, the Executive Committee should review the current IAG organizational structure; specifically, alternative methods of organizing the personnel directors. IAG should also consider setting an annual policy

agenda in conjunction with the OPM policy agenda, which could then be used as the basis for planning quarterly conferences.

**113309**

***[Request for Waiver of Indebtedness].*** B-198269. September 16, 1980. 3 pp.

*Decision* re: Lt. John G. Harrison, Jr., USN; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Navy.
**Authority:** B-193450 (1979). B-188595 (1977). 37 U.S.C. 403(b). 10 U.S.C. 2774.
**Abstract:** A Naval officer requested reconsideration of the denial of his application for waiver of a debt that arose from erroneous payments of basic allowance for quarters (BAQ) received while he was living in Government quarters. During the period of overpayment, the officer had his pay and allowances sent to his bank by allotment. His net pay after allotment was paid directly to him. Due to administrative error, his net pay was increased. He believed that the first leave and earnings statement (LES) on which he noticed overpayment was due to the delay in processing his bank account, and stated that he did not have his LES's in his personal files during some of the pay periods. In his appeal, he contended that the overpayment was through no fault of his, and that he had no reliable method of determining his actual pay and entitlements during the periods of overpayment. Legislation provides GAO with authority to waive certain debts when collection would be against equity and good conscience and not in the best interests of the United States. However, waiver is precluded if there is an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the service member. Fault exists if it is determined that the member should have known that an error existed and taken action to have it corrected. In this case, the member should have questioned the correctness of his pay when he received unexplained increases in his usual net pay. Also, he should have known that if overpayments continued, he would eventually be required to repay the erroneous amounts. It is fundamental that persons receiving money erroneously paid by a Government agency acquire no right to the money; such persons are bound to make restitution. GAO was unable to conclude that the member was free from fault, since he should have been aware of the strong possibility that he was being overpaid. Accordingly, the action denying the waiver was sustained.

**113310**

***[Settlement of Alleged Breach of Contract].*** B-191329. September 16, 1980. 8 pp.

*Decision* re: Buckhorn Rural Water Corp.; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Buckhorn Rural Water Corp.; National Park Service.
**Authority:** 56 Comp. Gen. 289. United States v. General Petroleum Corp., 73 F. Supp. 225 (S.D. Cal. 1956). Colonial Metals Co. v. United States, 494 F.2d 1355 (Ct. Cl. 1974). Kalver Corp., Inc. v. United States, 543 F.2d 1298 (Ct. Cl. 1976). Nolan Bros., Inc. v. United States, 405 F.2d 1250 (Ct. Cl. 1969). B-191195 (1978). 31 U.S.C. 82d.
**Abstract:** An advance decision was requested as to the legality of paying for settlement of an alleged breach of contract between the National Park Service (NPS) and a utility. Whether GAO should consider the matter was also to be determined. NPS and the utility entered into an agreement under which the utility agreed to provide water service to a recreation area. Under the agreement, the utility was to construct a water line from its water lines outside the recreation area to the area's boundary, and was solely responsible for maintenance, repair, and replacement of the line and any necessary equipment, facilities, and pumps. The Government was to pay for the actual cost of construction. Additionally, the agreement provided that NPS purchase and pay for water service furnished in accordance with the Water District's applicable rate schedules or a minimum charge of $50.00 per month, whichever was greater. NPS could terminate the agreement by giving notice to the Water District at least 90 days prior to the effective date of termination. NPS continued to pay the monthly minimum fee for 9 years after the water system went into effect, but did not use the lines because the area's water needs did not materialize as anticipated. When the contract was terminated, the NPS proposed settlement was accepted by the utility. However, the utility maintained that NPS breached the contract by failing to construct a connecting line within the area so that it could purchase water from the facility. GAO considered the case because both parties had not agreed that a breach of contract occurred, or that the settlement would be final without further review. Regarding the NPS liability for the alleged breach of contract, GAO found that it was clear that NPS agreed only to pay for water actually furnished, or a $50.00 monthly charge. Since NPS did in fact pay the monthly charge over the life of the contract, GAO believed it fulfilled any obligation to purchase and pay for water which arguably existed under the contract. It was held that by reimbursing the utility for the cost of constructing the water line, paying the monthly minimum charge as agreed, and terminating the agreement as provided in the contract, NPS fully discharged all of its obligations under the terms of the contract. No grounds for additional payment existed.

**113311**

***[Views on H.R. 7638].*** B-196171. September 16, 1980. 3 pp.

*Letter* to Rep. Peter W. Rodino, Jr., Chairman, House Committee on the Judiciary; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Air Force; Department of the Army.
**Congressional Relevance:** *House* Committee on the Judiciary; *Rep.* Peter W. Rodino, Jr.
**Authority:** Meritorious Claims Act (31 U.S.C. 236). H.R. 7638 (96th Cong.). 5 U.S.C. 5724(a)(3).
**Abstract:** GAO was asked to comment on proposed legislation which would provide full settlement of an Air Force employee's claim for the expenses incurred incident to his transfer from a civilian position with the Department of the Army to a position with the Department of the Air Force. The claim was disallowed because there was no legal authority for reimbursement to him of the amounts claimed. The claim was considered for reporting to Congress under the Meritorious Claims Act, but it did not satisfy the criteria GAO requires for reporting a claim to Congress under the Act. GAO informed the employee that it had previously been necessary to deny reimbursement for similar claims, and that such cases were not deemed appropriate for reporting to Congress under the Act. Enactment of the proposed legislation would result in preferential treatment of the claimant.

**113312**

***[Request for Reimbursement of Cost of Transoceanic Transportation].*** B-197402. September 16, 1980. 3 pp.

*Decision* re: Capt. William I. Parrish, USN; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Navy: Naval Air Station, Pensacola, FL; Department of the Navy: Navy Accounting and Finance Center.

**Authority:** 47 Comp. Gen. 405. 47 Comp. Gen. 325. 1 J.T.R. para. M4159-5. 1 J.T.R. para. M4204-3(g). 37 U.S.C. 404.
**Abstract:** An advance decision was requested concerning payment of expenses incurred in transoceanic travel by a privately owned boat in connection with a permanent change of station (PCS). A Navy officer was authorized travel at personal expense upon PCS from Morocco to Florida, with reimbursement of the cost of transoceanic transportation not to exceed the amount to which he would have been entitled for travel between his old and new duty stations using Government aircraft or vessel or Government procured transportation or transportation procured at personal expense, via a direct route. The officer used a privately owned sailboat to make the PCS. Regulations provide that reimbursement for travel expenses incurred in the use of a privately owned boat is limited to fuel, oil, and docking fees. GAO believed that the officer was entitled to reimbursement on an actual expense basis not in excess of the regulatory limitations. The officer also claimed expenses for insurance, food, and consumable stores. GAO held that these were personal expenses, and there was no authority in the regulations for their payment.

### 113313

***[Protest of Procedures Used in Army RFQ].*** B-199548. September 15, 1980. 5 pp.
*Decision* re: Association of Soil and Foundation Engineers; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Association of Soil and Foundation Engineers; Department of the Army: Army Armament Research and Development Command, Dover, NJ.
**Authority:** Property and Administrative Services Act (40 U.S.C. 471 et seq.). Armed Services Procurement Act of 1947. 4 C.F.R. 20.1. 4 C.F.R. 20.2. 4 C.F.R. 20.2(a). 55 Comp. Gen. 397. 52 Comp. Gen. 20. 56 Comp. Gen. 160. P.L. 96-125. D.A.R. 18-101.1. 40 U.S.C. 541 et seq. 10 U.S.C. 2301 et seq.
**Abstract:** The Association of Soil and Foundation Engineers (ASFE) protested the procedures used by the Army in a request for quotations to procure engineering and technical services for conducting environmental surveys. The protester contended that the procurement, based on price competition as well as technical considerations, was contrary to legislation. A protest was filed with GAO more than a month after the Army denied a protest on the matter. In determining whether the protester satisfied the interested party criterion, the nature of the issues raised and the direct or indirect benefit to or relief sought by the protester was considered. In this case, the appropriate interest was present, since the protester raised an issue involving the economic and professional interests of all its of members, any of which could have raised the protest issue on its own. Although the protest was untimely because it was filed more than 10 days after its denial by the Army, GAO believed that it raised an issue significant to procurement practices or procedures, and therefore, considered it on its merits. The protest initially concerned the applicability of the Brooks Bill to the Armed Forces and ultimately challenged the propriety of the procedures in this case and future Army procurements of engineering services. The legislation at issue only amended the statute applicable to civilian agencies of the Federal Government. Nonetheless, the selection policies for architects and engineers authorized by the legislation have been made applicable to military construction contracts since fiscal year 1971 by the Military Construction Appropriation Acts. Since the specific language only appears in the Military Construction Appropriation Acts, GAO did not believe it authorized the broad application urged by the protester. It was held that the Army procurement of engineering and technical services for environmental surveys, which may or may not lead to construction, was not a construction contract; and the award was properly based on price competition as well as technical considerations. Accordingly, the protest was denied.

### 113314

***[Administrative Payment of Attorneys Fees].*** B-193144. September 15, 1980. 7 pp.
*Decision* re: Equal Employment Opportunity Commission; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Equal Employment Opportunity Commission.
**Authority:** Rehabilitation Act of 1973 (P.L. 95-602; 92 Stat. 2955; 29 U.S.C. 701 et seq.). Civil Rights Act of 1964 (42 U.S.C. 2000c-16 et seq.). Age Discrimination in Employment Act of 1967 (P.L. 95-256; 92 Stat. 189; 29 U.S.C. 621 et seq.). Fair Labor Standards Act of 1938 (P.L. 93-259; 88 Stat. 55; 29 U.S.C. 211(b) et seq.). 43 Fed. Reg. 19807. 45 Fed. Reg. 24130. Moysey v. Andrus, 21 FEP 836 (D.D.C. 1979). Harris v. U.S. Department of the Treasury, 489 F. Supp. 476 (N.D. Ill. 1980). Nakshian v. Claytor, 22 FEP 41 (D.C. Cir. 1980). Alyeska Pipeline Service Co. v. Wilderness Society, 421 U.S. 240 (1975). 29 U.S.C. 626(b). 29 U.S.C. 633a(b). 29 U.S.C. 633a(c). 92 Stat. 3781.
**Abstract:** GAO was asked whether the Equal Employment Opportunity Commission (EEOC) may include in its regulations provisions for the payment of attorneys' fees at the administrative level to prevailing parties in handicap and age discrimination cases. EEOC has issued interim revised regulations implementing the Civil Rights Act which include provisions for payment of attorneys' fees at the administrative level. EEOC wishes to include provisions for the payment of attorneys' fees in connection with complaints brought under the Rehabilitation Act and the Age Discrimination in Employment Act. The payment of attorneys' fees in connection with complaints brought under the Rehabilitation Act is granted by reference to the Civil Rights Act. The Age Discrimination in Employment Act, as originally enacted, did not apply to Federal employees. It did not create a separate enforcement mechanism, but adopted by reference the powers, remedies, and procedures of the Fair Labor Standards Act. The right to recover attorneys' fees is specifically set out in that act. The Age Discrimination in Employment Act was later made applicable to the Federal Government. Both of the amendments to this act generally broadened the rights of Federal employees. GAO does not believe the amendment section was intended to deprive Federal employees of an important part of the remedy available to non-Federal employees, the right to receive attorneys' fees. Since GAO believes that Federal employees may be awarded attorneys' fees by courts in age discrimination cases, as in civil rights cases, and since the language granting the authority to regulate and enforce the Age Discrimination in Employment Act is virtually the same as it is in the Civil Rights Act, GAO held that EEOC may include provisions in age discrimination regulations for the payment of attorneys' fees at the administrative level to a prevailing party.

### 113315

***[Determination of Amount of Per Diem Payable to Employees on Temporary Duty Assignments Aboard Ships].*** B-195903. September 15, 1980. 9 pp.
*Decision* re: Ernest F. Saker; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Navy: Naval Oceanographic Office, Bay Saint Louis, MS.
**Authority:** Department of Defense Appropriation Act, 1978 (P.L. 95-111; 91 Stat. 908). 50 Comp. Gen. 388. 2 J.T.R. para. C4552-3b(6). 2 J.T.R. para. C4552-3d. 2 J.T.R. para. C4552-2c. Boege v. United States, 206 Ct. Cl. 560 (1975).

**Abstract:** A disbursing officer of the Naval Oceanographic Office asked what method should have been used to determine the amount of per diem payable to an employee who was on temporary duty assignment aboard a ship outside the continental United States for the periods during which the ship was in port. The Department of Defense Appropriation Act, 1978, states that employees of the Department of Defense could be required to use available Government quarters while on temporary duty assignments or face a reduction in their per diem or actual subsistence allowance. It rendered the 3 days in port rule moot as to the lodgings portion of the per diem payment. Amended Joint Travel Regulations specify that when an employee reports to a Government ship for temporary duty while the ship is in port, he is paid the same per diem rate as all other employees assigned to duty aboard the ship. Regulations do not specifically define the per diem entitlement of employees who procure their meals ashore. As a general rule, Naval Oceanographic Office employees on temporary duty aboard those ships can continue to eat their meals on the ships if they chose to do so. The Naval Oceanographic Office was charged by the commands operating the vessels only for the meals actually eaten by their employees while the ships were in port. There is no specific guidance as to how per diem is to be computed when meals are procured ashore and no mention of the 3 days in port rule. The documentation furnished in connection with this claim indicated that the Naval Oceanographic Office felt that the rate of per diem established for Government quarters available should be paid, at least after the third day in port. GAO found that for employees on temporary duty aboard vessels in ports outside the continental limits of the United States who procure meals ashore after the third day in port, per diem should be computed in accordance with the regulations governing Government quarters available. For ports inside the continental limits of the United States, if the lodgings-plus system is applicable, and meals are procured ashore after the third day in port, an average cost of lodgings of zero should be used. For ports covered by the actual expense system, actual expenses for meals procured ashore after the third day in port should be paid.

### 113316

***[The Education for All Handicapped Children Act of 1975].*** September 10, 1980. 27 pp. plus 1 attachment (2 pp.).
*Testimony* before the Senate Committee on Labor and Human Resources: Handicapped Subcommittee; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Contact:** Human Resources Division.
**Organization Concerned:** Department of Education: Special Education and Rehabilitation Services; Bureau of Education for the Handicapped.
**Congressional Relevance:** *Senate* Committee on Labor and Human Resources: Handicapped Subcommittee.
**Authority:** Education for All Handicapped Children Act of 1975 (P.L. 94-142). Education of the Handicapped Act (20 U.S.C. 1401 et seq.).
**Abstract:** Amendments to the Education of the Handicapped Act to improve educational services in local public schools for children with mental, physical, emotional, and learning handicaps require that free appropriate public education be available for all handicapped children. Schools are required to evaluate a child's special needs, develop an individualized education program for the child, involve the child's parents, and educate the handicapped child along with nonhandicapped children as much as possible. The Bureau of Education for the Handicapped (BEH) has estimated that twice the number of handicapped children needing special education exist as those identified by the States. In trying to get States to increase the number of children identified and reported, BEH has shown little concern for possible mislabeling and overcounting of children. Overcounting children by the States could affect the appropriation and distribution of Federal funds, and erroneously labeling children as handicapped could have a stigmatizing effect. The eligibility criteria for children with only minor impairments, such as speech impediments, need to be defined in the law. It is difficult to determine whether a program is a related service or special education under the standards. A speech impairment might not be an impairment which adversely affects a child's educational performance, a criteria for special education. The requirements for individualized education have not been met. Program goals of serving all handicapped children will not be met due to inadequate funding by the States and an inability to find needed special education personnel. Many of the difficulties in adequately and promptly implementing the Act's requirements occurred because of State and Federal management problems. GAO will propose that Congress clarify whether children who are receiving only speech therapy or other related services are eligible for coverage. In view of the difficulties the States are having in funding the programs, Congress may wish to consider providing incentives to stimulate State and local funding or increase Federal funding for the program. A decision to exempt those children from coverage under the Act whose impairments have not adversely affected their educational performance could increase the chances of reaching the law's goals sooner, if funding is not reduced.

### 113317

***[International Affairs: A Listing of Major Journals].*** May 1979. 20 pp.

**Contact:** Office of Librarian.
**Abstract:** This is an annotated list of major journals relating to international affairs and currently being received by GAO. The list includes the following subjects: (1) foreign relations and U.S. policy; (2) area studies, devoted to specific countries or areas; (3) defense and security; (4) law; (5) congressional documents and activity; (6) business and economics; (7) trade and financial statistics; (8) Organization for Economic Cooperation and Development publications; and (9) energy. Some titles were not considered appropriate for the list due to their specialized nature or focus. The list is a sampling of available journals selected to appeal to a wide range of international interests.

### 113318

***[Selected Publications on Equal Opportunity].*** January 1979. 16 pp.

**Contact:** Office of Librarian.
**Abstract:** This annotated bibliography presents selected recent publications on equal employment opportunity. It updates bibliographies published by GAO in December 1975 and February 1977. Topics covered include affirmative action; the use of statistics as evidence of discrimination; Federal, State and local governments; the Supreme Court's decision in the Bakke case; and equal opportunity problems of particular groups, such as the handicapped, ex-offenders, and racial and ethnic minorities.

### 113319

***[Women in the Workplace: An Annotated Bibliography].*** July 1979. 22 pp.

**Contact:** Office of Librarian.
**Abstract:** This annotated bibliography presents selected articles on various aspects of women in the workplace. The articles cover such topics as equal pay, women's education, women in management, women in the military, women in nontraditional jobs, unions, occupational hazards, sexual harassment, and working mothers.

### 113320

***[Selected Reference Works on Government Contracting: An Annotated Bibliography].*** October 1978. 8 pp.

**Contact:** Office of Librarian.
**Abstract:** This guide to reference works on Government contracting is intended for the person without a legal background or a familiarity with the procedures of Government contracting who is seeking information, or planning to do work in this area. Its purpose is to introduce the basic reference tools which serve as guides to research in the field. This listing is selective and provides only brief descriptions of the sources.

**113321**
***[Internal Auditing in the Government: An Annotated Bibliography].*** July 1979. 24 pp.

**Contact:** Office of Librarian.
**Authority:** Inspector General Act of 1978.
**Abstract:** Reports, monographs, and journal articles have been compiled in an annotated bibliography dealing with internal auditing in Federal, State, and local governments and their cooperative ventures. The following areas are covered: growth of the internal audit; current practices in the development of guidelines; the types of internal audit; and issues of pervasive interest, including the relative position of the internal auditor, auditing of electronic data processing systems, and the auditing of grant programs.

**113322**
***[Protest Involving Federal Funds].*** B-200078. September 16, 1980. 1 p.
*Decision* re: Preston Carroll Construction Co., Inc.; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Preston Carroll Construction Co., Inc.; Florida Keys Aquaduct Authority; Farmers Home Administration.
**Authority:** B-199022 (1980).
**Abstract:** A firm protested the tentative award of a contract alleging that the prospective awardee's bid was nonresponsive. According to the protester, 70 percent of the procurement was being funded by the Federal Government through a Farmers Home Administration community development loan. Non-Federal procurements financed with Federal loan funds are not reviewed by GAO since they are viewed as being neither procurements by or for an agency of the Federal Government, nor procurements by a Federal grantee. Accordingly, the protest was dismissed.

**113323**
***[Protest Against Proposed Contract Award].*** B-199969. September 16, 1980. 2 pp.
*Decision* re: M. D. Taddie and Co., Inc.; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** M. D. Taddie and Co., Inc.; Wastenaw, MT: Circuit Court; Township of Augusta, MI; Farmers Home Administration.
**Authority:** B-191112 (1978).
**Abstract:** A firm requested that GAO review the proposed award of a contract by a township for a water main expansion project financed by loan and grant funds from the Farmers Home Administration (FHA). Prior to filing its complaint with GAO, the firm protested the proposed award to the township and to FHA. It also filed suit in the circuit court. The issues raised in the suit were identical to those presented in the protest to GAO. Since it is not GAO policy to review matters where the material issues involved are before a court of competent jurisdiction and the court has not expressed an interest in the GAO views, GAO declined to review the matter. Therefore, the complaint was dismissed.

**113324**
***[Reimbursement of Expenses].*** B-199185. September 17, 1980. 3 pp.
*Decision* re: Walter M. Mangiacotti; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Transportation Law
**Organization Concerned:** Federal Bureau of Investigation.
**Authority:** Merchant Marine Act, 1936 (46 U.S.C. 1241(a)). Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (P.L. 96-132; 93 Stat. 1040). Foreign Service Act Amendments of 1956 (22 U.S.C. 1136). 58 Comp. Gen. 385. 6 FAM 165.9. 6 FAM 165.9-1. B-191180 (1978). 31 U.S.C. 82d. 5 U.S.C. 5721 et seq. 22 U.S.C. 160. 93 Stat. 1041.
**Abstract:** A Federal Bureau of Investigation (FBI) certifying officer requested a decision concerning the payment of expenses incurred in shipping an employee's privately owned vehicle (POV) from Italy to Washington, D.C. When the employee was transferred to the American Embassy in Italy, he purchased a POV from a fellow employee who had imported the vehicle from Germany. According to the FBI, the use of POV's by its personnel at that embassy is essential for the performance of official duties, and the employee used his POV for this. When the employee was transferred from Italy to Washington, D.C., he was advised that the POV could not be shipped to the new duty station at Government expenses under FBI policy, Federal Travel Regulations (FTR), and the Foreign Affairs Manual (FAM). The claimant, unable to sell the POV in the time alloted, made shipping arrangements for the vehicle. The FBI denied the claim for reimbursement of shipping expenses. After resubmission of the claim, the FBI determined that the advice given to the claimant was erroneous citing a FAM exception provision to the prohibition against shipping a foreign-made, foreign-purchased POV to the United States at Government expense. GAO did not agree that the cited portion of the FAM applied to the claimant. Accordingly, the disallowance of the claim for reimbursement was sustained.

**113325**
***[Protest Concerning IFB Cancellation].*** B-198598. September 16, 1980. 5 pp.
*Decision* re: Career Consultants, Inc.; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I
**Organization Concerned:** Career Consultants, Inc.; Department of the Army: Fort Huachuca, AZ.
**Authority:** 4 C.F.R. 20. 4 C.F.R. 20.2(b)(2). 4 C.F.R. 20.2(a). 4 C.F.R. 20.2(b). B-194505 (1979). B-183866 (1976). B-197076 (1980). B-192578 (1979).
**Abstract:** A firm protested the cancellation of an Army invitation for bids (IFB) for guard services. The IFB was canceled because the Army determined that it would cost less to continue to have the services performed in-house than to contract with the private sector. The protester alleged that the Army performed a faulty cost-analysis favoring an in-house decision. Generally, GAO does not consider disputes over agency decisions to perform work in-house. However, when an allegation is made that a faulty cost analysis was made, the matter will be considered, if it has been filed in a timely manner. GAO concurred with the Army's position that the protest was untimely. An initial protest to the Army was denied, and the protest to GAO, filed more than 10 days after the Army's denial, was untimely. Therefore, the protest was dismissed.

**113326**

***[Survey of the Readiness of Minuteman Missiles].*** LCD-80-102; B-199767. September 16, 1980. 2 pp. plus 1 enclosure (5 pp.).
*Report* to Hans M. Mark, Secretary, Department of the Air Force; by Donald J. Horan (for Richard W. Gutmann, Director), GAO Logistics and Communications Division.

**Issue Area:** Military Preparedness Plans: Readiness of the Military Forces (0808); Logistics Management: Equipment Maintenance and Procurement Achieving Optimum Efficiency and Effectiveness (3808).
**Contact:** Logistics and Communications Division.
**Budget Function:** National Defense: Department of Defense - Military (except procurement and contracts) (0051).
**Organization Concerned:** Department of the Air Force.
**Congressional Relevance:** *House* Committee on Appropriations; *House* Committee on Government Operations; *House* Committee on Armed Services; *Senate* Committee on Appropriations; *Senate* Committee on Governmental Affairs; *Senate* Committee on Armed Services.
**Abstract:** In April 1980, GAO began a survey of the readiness of Minuteman strategic missiles. The principle objectives were to examine: (1) the adequacy of readiness reporting procedures; (2) the crews' status and training; (3) impacts of planned modifications and modernization programs on the missiles' capabilities; and (4) the efficiency of logistics support systems. However, because of severe constraints on GAO audit resources, and because limited tests indicated that reported high levels of readiness appeared accurate, the audit was suspended. During the survey, though, several situations were found to warrant management attention. ***Findings/Conclusions:*** First, the Air Force may be able to use 30 currently unused magnetic drum memory units as spares. This would eliminate the need to purchase additional units as spares and reduce the need for a planned repair program for such units. Second, The Air Force has stopped assigning rated pilots and navigators to missile launch crews and plans to reassign, over the next 3 years, those currently serving as launch crewmembers. The Air Force, however, has no plans for achieving the significant savings possible through accelerating reassignment of these personnel to flying duties whenever practical. Third, there is disagreement over the necessity for an extended emergency survivable power source for Minuteman missiles. Many matters warrant consideration in reaching a final decision on this issue. ***Recommendation To Agencies:*** The Secretary of the Air Force should direct the Air Force to: (1) use the magnetic drum memory units installed at the two Minuteman II wings as spare parts for the other sites; and (2) reassign qualified pilots and navigators to flying as soon as possible and practical.

**113327**

***The Department of Justice Can Do More To Help Improve Conditions at State and Local Correctional Facilities.*** GGD-80-77; B-198054. September 15, 1980. 40 pp. plus 1 appendix (12 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Law Enforcement and Crime Prevention: Non-Line-of-Effort Assignments (0551); Health Programs: Non-Line-of-Effort Assignments (1251).
**Contact:** General Government Division.
**Budget Function:** Administration of Justice: Federal Correctional Activities (0753).
**Organization Concerned:** Department of Justice; Administrative Office of the United States Courts; Office of Management and Budget.
**Congressional Relevance:** Congress.
**Authority:** Civil Rights of Institutionalized Persons Act. Civil Rights Act (42 U.S.C. 2000b; 42 U.S.C. 2000h).
**Abstract:** Unsafe, unsanitary conditions in many State prisons and local jails endanger the health and well-being of inmates, correctional staff, and visitors. Correctional institutions need adequate maintenance programs, trained personnel, and inspection programs which can detect deficiencies and ensure that they are corrected. Problem areas include fire prevention, food preparation and storage, accident prevention, hygiene, temperature and light levels, pest control, and air quality. The responsibility for improving conditions rests primarily with State and local governments, but there is a need for increased Federal participation. There are five Department of Justice agencies involved with conditions in prisons and jails: the Civil Rights Division, the Marshals Service, the Bureau of Prisons, the Law Enforcement Assistance Administration (LEAA), and the National Institute of Corrections. These agencies can assist State and local correctional officials in improving health and safety standards in their prisons and jails. ***Recommendation To Agencies:*** The Attorney General should: (1) expand the role of the Civil Rights Division so that it assists troubled institutions desiring assistance in solving environmental health problems, even though the conditions do not warrant civil action; (2) upgrade the Marshals Service's jail inspection services program, by including better training, using its resources and expertise to assist jail administrators and inspectors in improving their effectiveness, and exploring the possibilities of increased coordination and cooperation with State and local inspection agencies; (3) direct the Bureau of Prisons to work with the National Institute of Corrections to set up a mechanism for disseminating information on its environmental health experience to correctional officers at all types of institutions, and for opening more Bureau training to State and local officials; (4) encourage and assist State and local officials to develop maintenance programs by directing LEAA to support the development of maintenance standards to be used as models by correctional officials and of detailed guidelines which will assist administrators in implementing plans to meet the standards; (5) establish a program within the National Institute of Corrections for disseminating information regarding equipment and materials suitable for correctional facilities; and (6) encourage the National Institute of Corrections to expand its environmental health training programs to reach a larger number of correctional officials and include a wider range of safety and sanitation programs.

**113328**

***Foresighted Planning and Budgeting Needed for Public Buildings Program.*** PAD-80-95; B-200234. September 9, 1980. 16 pp. plus 2 enclosures (5 pp.).
*Report* to Sen. Jennings Randolph, Chairman, Senate Committee on Environment and Public Works; by Elmer B. Staats, Comptroller General.

**Issue Area:** Facilities and Material Management: The Federal Buildings Fund (0711); Program and Budget Information for Congressional Use: Consideration of and Visibility of Capital Acquisitions in the Federal Budgetary Process (3406).
**Contact:** Program Analysis Division.
**Budget Function:** General Government: General Property and Records Management (0804).
**Organization Concerned:** General Services Administration.
**Congressional Relevance:** *Senate* Committee on Environment and Public Works; *Sen.* Jennings Randolph.
**Authority:** Public Buildings Act of 1959 (40 U.S.C. 606). P.L. 96-22. H.R. 7689 (96th Cong.). S. 2080 (96th Cong.). 38 U.S.C. 5004.
**Abstract:** GAO examined the planning and budgeting for public buildings managed by the General Services Administration (GSA). GAO compared the major features of successful capital investment planning and budgeting with the practices of the Federal Government in public buildings programs. The effective processes include (1) long-term and short-term planning for the entire program or organization; (2) capital investment priorities that are established

at the program or organizational level and consider all requirements; (3) a direct link between planning and budgeting; and (4) a high priority for maintenance along with a recognition that funds are sometimes quite limited. ***Findings/Conclusions:*** The public buildings program managed by GSA does not adequately establish program priorities, link planning to budgeting, or provide for effective maintenance and major repair. The existing congressional authorization process does not require GSA or Congress to establish priorities or to link authorization and planning to budgeting. The GSA case-by-case submission of prospectuses under current authorization procedures forces decisionmaking with no knowledge of a particular project's place in the overall program mission. Because these procedures do not link planning and authorization to budgeting, the funds that are available may not go to carrying out the highest priority. Case-by-case decisionmaking also prohibits judicious analysis of alternative approaches to meeting program objectives. ***Recommendation To Congress:*** Congress should require that GSA provide information periodically for the public buildings programs that: (1) identifies long-range public building needs from assessments of current conditions; (2) identifies the status of projects that have already been approved; (3) sets forth the plans by GSA for meeting program needs; (4) establishes priorities among the individual projects; and (5) links planning for projects and priorities directly to the budget process and the anticipated availability of funds to carry out an effective annual public buildings program.

**113329**

***Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics.*** EMD-80-58; B-197675. September 16, 1980. 109 pp. plus 15 appendices (113 pp.).

*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Energy: Non-Line-of-Effort Assignments (1651); Science and Technology: Support of Basic Research (2008).

**Contact:** Energy and Minerals Division.

**Budget Function:** General Science, Space, and Technology: General Science and Basic Research (0251); Energy: Energy Supply (0271); General Government: Executive Direction and Management (0802).

**Organization Concerned:** Department of Energy; National Science Foundation; Office of Management and Budget; Office of Science and Technology Policy.

**Congressional Relevance:** Congress.

**Abstract:** The United States has led the world in high energy physics research; other countries are now challenging that lead. The Federal Government provides nearly all of the funding of the U.S. high energy physics efforts. The Office of Science and Technology Policy (OSTP) has oversight responsibility over all federally funded basic science and works with the Office of Management and Budget (OMB) in developing the basic science budgets. The National Science Foundation (NSF) is the principal Federal agency for the support of basic research across all fields of science and science education. The Department of Energy (DOE) has the primary responsibility for implementing a sound national high energy physics program. ***Findings/Conclusions:*** Whether the funding of high energy physics research is appropriately balanced with support of research in other basic science fields is not clear. DOE funding is based on an agreement with OMB to annually fund high energy physics at a constant level, which is the minimum amount the physics community believes is needed to maintain a viable program with adequate diversity. The funding has not been based on a comprehensive plan for maintaining a leadership position. GAO believes the program has been faced with trying to do more than available funds would allow. DOE has not formally prepared a comprehensive plan which is consistent with the agreed upon funding level. The program has been emphasizing the development and construction of accelerators. Other key program elements have been inadequately funded. This may have detrimental effects on long-term accelerator technology and the participation of the brightest and most talented U.S. scientists. GAO believes that the objective of maintaining a world leadership position, the plan for achieving this objective, and the level of funding need to be examined in the light of the program's needs and importance relative to other basic sciences. A given policy and strategy should not be pursued unless the amount of funds needed are made available. Congress could provide valuable input into the final determination of what the overall objectives of the program should be, as well as the appropriate strategies and necessary funding levels. ***Recommendation To Agencies:*** The Director of OSTP should assemble a work group to conduct a study to determine the appropriate level for funding the U.S. high energy physics program taking into consideration the program's needs and importance relative to other basic sciences. Based on the results of such a study, the Director should prepare a policy paper setting forth the objectives of the U.S. program, a strategy for achieving such objectives, and the appropriate annual funding levels for carrying out the strategy. Such funding levels should consider projected amounts for major functions such as construction, accelerator operations, accelerator research and development, equipment, equipment research and development, and physics research. The Director should consult with the appropriate oversight committees of Congress for their views and input in helping to formulate the policy. The Directors of OMB and NSF, and the Secretary of Energy should fully cooperate in the study. The Secretary of Energy should formally institute the development of near-, mid-, and long-range plans on a periodic basis. These plans should be submitted to Congress for its information and use in carrying out its budgetary and oversight responsibilities.

**113330**

***Employment Service Needs To Emphasize Equal Opportunity in Job Referrals.*** HRD-80-95; B-200068. September 17, 1980. 31 pp. plus 6 appendices (9 pp.).

*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Non-Discrimination and Equal Opportunity Programs: Eliminating Employment Discrimination (1016).

**Contact:** Human Resources Division.

**Budget Function:** Education, Training, Employment and Social Services: Training and Employment (0504); Nondiscrimination and Equal Opportunity Programs (1006).

**Organization Concerned:** Department of Labor; Equal Employment Opportunity Commission; Department of Justice.

**Congressional Relevance:** Congress.

**Authority:** Wagner-Peyser Act (Federal Employment Service) (29 U.S.C. 49 et seq.). Social Security Act (42 U.S.C. 501 et seq.). Unemployment Tax Act (26 U.S.C. 3301 et seq.). Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). Comprehensive Employment and Training Act of 1973. 28 C.F.R. 42.415. Executive Order 11764.

**Abstract:** The Employment Service finds jobs for people and people for jobs. It is operated jointly by the Department of Labor and the States through local employment offices. ***Findings/Conclusions:*** The Employment Service offices which GAO visited generally referred minorities and women to lower paying jobs traditionally held by minorities and women in proportions greater than their representation among applicants. These were low or semiskilled positions, such as maids, porters, domestic workers, retail sales clerks, and clerical workers. Whites and males were referred to better paying jobs in proportions greater than their representation among applicants. Minority and female applicants were often unskilled or semiskilled, and could not qualify for better paying jobs. The local offices' practices for processing applicants followed traditional employment practices and, therefore, reinforced them. Local offices filled most job orders with new applicants as they registered, and referred few applicants from among those with

applications on file. Federal and State equal opportunity compliance efforts were inadequate. The Department of Labor was not responsive to Department of Justice recommendations for improving its enforcement activities. The Department of Labor's regional administrators did not emphasize equal opportunity enforcement in providing employment services, and Labor did not require States to use its computerized equal opportunity compliance tool, which presents applicant data in a format designed for equal opportunity analysis. The training applicants' need to obtain or improve their skills may be met through Comprehensive Employment and Training Act programs. ***Recommendation To Agencies:*** The Secretary of Labor should ensure that local office procedures are revised to consider the possible present effects of past employment practices, local office staffs are given equal opportunity awareness training, and equal opportunity concerns are considered when revising the fund allocation formula. The Secretary of Labor should improve equal opportunity enforcement by: (1) giving the headquarters equal opportunity compliance staff control over regional compliance units, (2) requiring States to use the computerized enforcement tool or a similar system, (3) incorporating compliance with equal opportunity requirements in local office program compliance reviews, and (4) developing procedures for local offices to periodically provide equal employment opportunity information on possible employment discrimination by employers.

**113331**

***[The Employment and Training Administration Should Stop Using State Agencies To Pass Funds Through to Contractors].*** HRD-80-109; B-195620. September 18, 1980. 6 pp. plus 1 enclosure (5 pp.).

*Report* to Ray Marshall, Secretary, Department of Labor; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** General Procurement: Procurement Practices Under Federal Grants (1917); Federally Sponsored or Assisted Employment and Training Programs: Internal Administrative Controls Over Selected Areas of CETA Programs (3204).
**Contact:** Human Resources Division.
**Budget Function:** Education, Training, Employment and Social Services: Training and Employment (0504).
**Organization Concerned:** Department of Labor; Nevada: Department of Employment Security; Employment and Training Administration
**Authority:** Comprehensive Employment and Training Act of 1973.
**Abstract:** Offices in the Department of Labor's Employment and Training Administration (ETA) arranged with the State of Nevada for nine pass through agreements to obtain services for several Labor activities. A pass through agreement is a procurement initiated and principally carried out by ETA, but entered into by a State and a contractor using Federal funds granted to the State. ***Findings/Conclusions:*** For six of the agreements, Labor officials stated that they used the pass through arrangement because there were insufficient funds available, which they could obligate directly, to spend for the work. Instead, funds available under the Grants to States for Unemployment Insurance and Employment Services appropriation were used. According to Labor officials, under law these funds must be granted to States; Labor cannot obligate these funds directly to contractors. Therefore Labor used the funds by using the pass through arrangement. For two projects, Labor used the pass through arrangement because they lacked the staff and time to go through a formal procurement process. The remaining project used Comprehensive Employment and Training Act funds, which Labor could have used to contract directly for the work. Labor's view was that the pass through contracting method was justified because the work benefited the employment security system rather than merely affecting Federal operations. Although GAO does not question the legal basis for these awards, Labor should procure these services, when needed, directly. Labor's use of pass through agreements for achieving ETA goals does not ensure that the Federal Government's interests are protected. These agreements effectively circumvent the procurement standards and safeguards set forth to ensure effective use of Federal moneys. ***Recommendation To Agencies:*** The Secretary of Labor should: (1) discontinue using State agencies to enter into agreements that pass through funds to contractors for work having regional or nationwide application; and (2) where Labor has a continuing need to obtain the services for the kinds of activities discussed in this report, request sufficient funds from Congress to allow for procurement directly.

**113332**

***[Compliance by Federal Agencies With the Requirements To File 1099 Information Returns].*** September 18, 1980. 12 pp.

*Testimony* before the House Committee on Ways and Means: Oversight Subcommittee; by William J. Anderson, Director, GAO General Government Division.

**Contact:** General Government Division.
**Organization Concerned:** Internal Revenue Service.
**Congressional Relevance:** *House* Committee on Ways and Means: Oversight Subcommittee.
**Authority:** Internal Revenue Code (IRC).
**Abstract:** The Internal Revenue Code requires that Federal agencies must file form 1099 MISC information documents with the Internal Revenue Service (IRS) each calendar year for nonemployee compensation. The extent of noncompliance by Federal agencies in this area, the reasons for noncompliance, and IRS compliance efforts in this area were reviewed. None of the agencies reviewed was in full compliance with the requirements for filing 1099 documents with IRS for nonemployee compensation. Confusion existed as to the need to file, and there was a reluctance to comply because of the perceived complexities associated with the requirement. IRS has given little attention to enforcing this requirement and has not addressed some important issues associated with filing. Although it appeared that IRS was substantially complying with its own regulations, IRS officials said that they could not be sure that all of its payments for nonemployee compensation that should be covered by a 1099 information document were being identified. Most of the agencies reviewed could not readily determine the amount of payments that were subject to 1099 reporting because their information systems were not designed to do so. Payment documents did not contain the information needed to alert the accounting function about the filing requirement. Some information documents did not contain the taxpayer's identification number needed in the IRS document matching program. Except for health services, payments to corporations are exempted from the filing requirements. IRS acknowledged this inconsistency, but was not fully aware of the extent of the problem. Auditing a taxpayer's records is the IRS tool for enforcing compliance, a technique not ordinarily applied to Federal agencies. Action is needed to clarify Federal agencies' responsibility to file information returns for nonemployee compensation, provide for the accumulation of the necessary information in the agencies' management systems, clarify the distinction between product and service, and enforce the Internal Revenue laws with regard to Federal agencies. Department heads of all Federal agencies need to be alerted that a serious noncompliance problem may exist in their respective agencies. Reporting requirements and procedures should be included in the Treasury Fiscal Manual for Guidance of Federal Agencies.

**113333**

***[Controls Over Drugs in Veterans Administration Medical Centers].*** September 17, 1980. 13 pp.

*Testimony* before the House Committee on Veterans' Affairs' Special Investigations Subcommittee; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Contact:** Human Resources Division.
**Organization Concerned:** Veterans Administration.
**Congressional Relevance:** *House* Committee on Veterans' Affairs: Special Investigations Subcommittee.
**Abstract:** GAO was asked to report on the controls over drugs in Veterans Administration (VA) Medical Centers. Previously, GAO stated that substantial drug losses in VA centers could be reduced and patient care improved by converting from the ward stock pharmacy system to unit dose, an improved system which provides better drug controls. Recognizing that it may not be economically feasible to convert all medical centers to the unit dose system in a short period of time, the recommendations to VA focused on interim actions that should be taken to improve and strengthen drug controls under the ward stock system. GAO also recommended that VA establish a definite timetable for VA-wide conversion of ward stock centers to the unit dose system. GAO found that VA still does not have an effective program for controlling the use of, or accounting for, drugs dispensed at its ward stock centers. With a few exceptions, GAO found that the recommendations were not implemented by VA. To illustrate the types of internal control problems existing at ward stock centers, GAO focused on the pharmacy operations at one of the VA medical centers. At this center, the followup showed no adequate system of drug controls through the maintenance of records, monitoring of drug use, and audit of drug receipts and deliveries. In addition, GAO found that unused prescription pads were readily accessible to unauthorized persons and a number of physician signature cards were incomplete or outdated. GAO believes that without specific funding, local center directors will be hard pressed to convert existing ward stock pharmacy systems to unit dose systems. The VA should identify the amount of funding necessary to permit systemwide conversion to unit dose and provide the resources required to the affected centers to achieve total conversion.

**113334**
***[Entitlement to Per Diem for Travel of Less Than 24 Hours].*** B-198008. September 17, 1980. 10 pp.
*Decision* re: Savings and Loan Examiners, by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General)

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Federal Home Loan Bank Board.
**Authority:** 4 C.F.R. 21. 4 C.F.R. 31.5. 5 Comp. Gen. 255. 14 Comp. Gen. 414. Bornhoft v. United States, 137 Ct. Cl. 134 (1956). F.T.R. para. 1-7.3a. F.T.R. para. 1-7.3c. F.T.R. para. 1-7.6d. F.T.R. para. 1-8.1b(1). F.T.R. para. 1-8.2b. F.T.R. para. 1-8.5. B-182586 (1974). B-182728 (1975). B-184489 (1976). B-185820 (1976). B-180010 II (1977). B-186740 (1977). B-186820 (1978). B-195940 (1979). 5 U.S.C. 5702. 5 U.S.C. 5707. 31 U.S.C. 71a. 31 U.S.C. 237.
**Abstract:** A request was made for a decision concerning the entitlement of Federal Home Loan Board examiners to per diem for travel of less than 24 hours where no lodging expense was incurred. The main issue presented was whether the Board may use a flat per diem rate for travel of less than 24 hours in per diem localities as well as high-rate geographical areas (HRGA). GAO was asked whether: (1) the Board may establish different per diem policies for examiners traveling less than 24 hours; (2) the Board may pay a fixed flat $3 rate for commuting expenses in lieu of per diem where travel is less than 24 hours; (3) the Board may increase the travel time limitation from 10 to 11 hours; (4) the Board properly limited employees to flat rate per diem for travel of less than 24 hours in HRGA from 1975 to 1979; (5) the Board may authorize a flat per diem rate through blanket travel orders or specific travel orders; and (6) an agency may establish a radius around an official duty station within which per diem or actual expenses will not be allowed. GAO concluded that: (1) an agency need not pay the same per diem rate to different employees, but, in the interest of fairness, agencies should limit per diem under uniform guidelines applicable to all employees; (2) agencies have broad discretion to limit or deny per diem for travel of less than 24 hours under Federal regulations; (3) the Board may limit reimbursement since agencies have broad discretion to limit or restrict per diem; (4) it is within the Board's authority to pay flat per diem from July 1, 1975 to 1979, when the Board changed its policy; (5) agencies may use blanket travel orders for frequent and repeated travel within a certain geographical area; and (6) it is within the authority of an agency to deny per diem inside the radius around the official duty station and to limit the actual expense reimbursement to only reasonable expenses for meals. Futhermore, per diem or actual expense are not allowable within corporate limits of the employee's official duty station.

**113335**
***[Protest Alleging Agency Failed To Provide Adequate Statement of Needs].*** B-196512. September 17, 1980. 3 pp.
*Decision* re: Dictaphone Corp., by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General)

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Dictaphone Corp.; Department of the Army.
**Authority:** 4 C.F.R. 20.2(b)(2). 57 Comp. Gen. 865. B-193614 (1979). B-195346 (1979).
**Abstract:** A firm protested the Department of the Army's award of a contract to another company for the purchase of a central dictation system and the lease of certain other dictation equipment. The protester contended that its equipment could have met the Army's needs at a lower price than the awardee's, but that the Army failed to adequately disclose its minimum needs when soliciting quotations. In requesting quotations, the Army provided bidders with model numbers, identification numbers, and quantities of equipment needed to meet its minimum purchase and lease needs. The Army found the equipment offered by the protester, though it involved the lowest rental and purchase prices, to be unacceptable because it lacked a number of features that the agency considered necessary. The protester asserted that the equipment it proposed did in fact provide some of the features which the Army believed were not included. The firm contended that when its quotations were solicited it was not advised of the features which the Army considered mandatory, and, had it known those salient features, it would have included additional equipment in the quotations so that all of the Army's leasing needs would have been met. The Army maintained that the protest was untimely, but the firm disputed this allegation, and there was nothing in the record to settle the issue. Where doubt exists as to when a protester knew or should have known of the basis for protest, that doubt is resolved in favor of the protester. Therefore, the protest was considered on its merits. GAO has previously determined that an agency has failed to provide an adequate statement of its needs to allow firms to compete on an equal basis where the request for quotations merely listed brand name items which met the agency's requirements without listing the items' salient characteristics. It should not be left up to an offeror to guess which features of the equipment the contracting agency considers necessary to meet its minimum needs. Accordingly, the protest was sustained.

**113336**
***Career Level Council--Annual Report 1980.*** August 1980. 43 pp. plus 20 appendices (48 pp.).
by Career Level Council, GAO Office of the Comptroller General.

**Contact:** Office of the Comptroller General: Career Level Council.

**Abstract**: During the fiscal year 1980, the GAO Career Level Council transmitted its views on the Division Directors' Group paper on Teams and the first set of draft regulations implementing the GAO personnel legislation. The Council recommended the development and implementation of formal standards by which to evaluate and promote career ladder staff. The Council recommended that all members of the competitive selection panels for vacancies at the GS-2 through 12 levels be knowledgeable in the subject matter related to the vacancies. It encouraged personal interviews of the final candidates, whenever possible, and the release of persons selected for a vacancy as soon as possible after they are selected. Regional depositories should be established with the same deadline that headquarters staff have for submitting their competitive selection paperwork. The Council also recommended that GAO eliminate the $300 per semester limit on evening college courses,and that serious consideration be given to allocating travel funds for training. In commenting on the proposed disciplinary actions and guidelines, the Council found that the proposed Table of Disciplinary Offenses and Penalties is vague and the penalties are severe. It could be subject to inconsistent interpretation and would require a tremendous monitoring effort by Personnel. The Council requested that GAO support a proposal that maximum allowances for per diem and for actual expenses be increased. Proposed changes in local travel regulations would unnecessarily increase administrative costs and paperwork, not adequately reimburse staff for costs incurred, and deal only with problems in the District of Columbia area. It suggested that performance appraisals be given at least annually and be subject to appeal. It supported the proposals to expand regional office participation in program planning and develop greater subject matter expertise in the regions. Personnel should insure that its current procedures for validating certification scores are followed. Direct supervision of staff should not be a requirement for a sub-team leader title. GAO should consider reinstituting a field/headquarters rotation policy as a mechanism for career development. The maxi-flex alternative work schedule has been a morale booster and improved the quality of life for employees, but regulations should clarify what constitutes an abuse of the system and what disciplinary actions are available when abuses occur.

**113337**

***Three Mile Island: The Most Studied Nuclear Accident in History.*** EMD-80-109, B-199244. September 9, 1980. ***Released*** September 9, 1980. 55 pp. plus 2 appendices (17 pp.).

*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area**: Energy: Nuclear Power Development Throughout the World Without Undue Risk of Proliferation (1621).

**Contact**: Energy and Minerals Division.

**Budget Function**: Energy: Energy Information, Policy, and Regulation (0276).

**Organization Concerned**: Nuclear Regulatory Commission.

**Congressional Relevance**: *House* Committee on Interstate and Foreign Commerce: Energy and Power Subcommittee; Congress.

**Abstract**: GAO reviewed eight investigative reports and other supporting material on the nuclear accident at Three Mile Island. Most investigators agreed that the accident was caused by a combination of factors, including equipment malfunctions, inadequate operator training, poor designs, and inadequate operating and emergency procedures. Many of these deficiencies had been known by the Nuclear Regulatory Commission (NRC) for some time, but most were not considered important in view of the NRC strategy for reactor licensing and design. The practices, procedures, and attitudes of the NRC were challenged to such an extent that a major reorganization and restructuring of the agency was recommended. Previous GAO reports identified many of the same problems as found by the Three Mile Island investigations. Several of the studies of the radiation doses received by the population around Three Mile Island and by plant workers concluded that the accident had a negligible effect on the physical health of these people; however, it had a demoralizing effect on them. ***Findings/Conclusions:*** GAO concluded that the investigations varied in depth and comprehensiveness but were generally consistent. GAO endorses the President's reorganization plan, which would greatly expand the management role and authority of the Chairman, but leave the Commissioners responsible for setting policy and providing the operational framework. NRC has taken or planned action on recommendations which included establishing safety goals, making powerplant standardization mandatory, improving the role of the Advisory Committee on Reactor Safeguards, and providing funding and legal counsel to public groups or individuals intervening in licensing proceedings. However, little progress has been made on establishing goals and criteria which describe what level of safety and nuclear regulation is enough. GAO endorses a provision in the 1981 authorizing legislation which directs NRC to develop a proposed safety goal for nuclear reactor regulation. NRC needs to develop some systematic way to increase its participation in important licensing and regulatory decisions. GAO favors options that increase the Commissioner's role in the licensing and adjudication process, while retaining the Atomic Safety and Licensing Appeal Board and its basic agency responsibilities. Many long-term and important actions to improve specific design and operating problems are yet to be completed by the NRC. GAO endorses the proposed creation of a special Nuclear Safety Oversight Committee and believes that NRC should submit annual reports to Congress on its progress in implementing action plans.

**113338**

***Electronic Funds Transfer--Its Potential for Improving Cash Management in Government.*** FGMSD-80-80, B-200032. September 19, 1980. 19 pp. plus 2 appendices (10 pp.).

*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area**: Automatic Data Processing: Acquisition of ADP Resources Under the Brooks Act (0111); Accounting and Financial Reporting: Sound Cash Management (2805).

**Contact**: Financial and General Management Studies Division.

**Budget Function**: General Government: Central Fiscal Operations (0803); Interest: Interest on the Public Debt (0901); Automatic Data Processing (1001).

**Organization Concerned**: Office of Management and Budget; Department of the Treasury; Federal Reserve System.

**Congressional Relevance**: Congress.

**Authority**: P.L. 95-147.

**Abstract**: Electronic funds transfer (EFT) technology is being increasingly used in government and industry to replace checks for sending and receiving money. The use of EFT in the Federal Government is expected to increase the Government's opportunities for realizing interest savings. Funds which flow faster into the Treasury's interest-earning tax and loan accounts at banks and other financial depositories begin earning interest sooner. In addition, funds which flow faster into the Treasury's accounts at the Federal Reserve can also begin earning income sooner. ***Findings/Conclusions:*** EFT has only limited ability to affect borrowing decisions. Although it can make funds available a few days earlier, borrowing decisions are generally insensitive to short-term changes in the timing of receipts. The overriding consideration in the Treasury's borrowing decisions is debt management, not cash management. Faster EFT receipts, though, can sometimes reduce the amount borrowed. This can occur when the aggregate of such receipts effectively raises the monthly low points of the Treasury's projected cash balances. To avoid a shortage of cash, borrowing decisions tend to focus on these low points, which normally occur around midmonth and are created by the timing differences in Government disbursements and receipts. For EFT to have a more positive influence on borrowing decisions, the faster flow must be tied into the forecasting process. EFT can give the Treasury greater accuracy in

forecasting its daily cash balances because it eliminates the timing uncertainties in the mailing, cashing, and clearing of checks. Recurring EFT payments and receipts can provide more reliable data for estimating the future effect of these transactions on the daily cash balances. ***Recommendation To Agencies:*** The Secretary of the Treasury should ask all Federal agencies to report to the Treasury the amounts and timing of large receipts and payments to be made by EFT as soon as they know when such transactions will be made, preferably at least 10 days in advance.

**113339**

***Rising Hospital Costs Can Be Restrained by Regulating Payments and Improving Management.*** HRD-80-72; B-198503. September 19, 1980. 79 pp. plus 31 appendices (131 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Health Programs (1200); Health Programs: Health Care Costs (1208).
**Contact:** Human Resources Division.
**Budget Function:** Health: Health Care Services (0551); Health: Health Planning and Construction (0554).
**Organization Concerned:** Department of Health and Human Services; Health Care Financing Administration.
**Congressional Relevance:** Congress.
**Authority:** Social Security Amendments of 1967 (P.L. 90-248). Health Planning and Resources Development Act (P.L. 93-641). Social Security Amendments of 1972 (P.L. 92-603; 42 U.S.C. 1395). Social Security Act (42 U.S.C. 1396). Medicare-Medicaid Anti-Fraud and Abuse Amendments (P.L. 95-142). P.L. 96-79.
**Abstract:** GAO examined the impact on rising hospital costs in nine States having prospective rate setting programs. Prospective rate setting programs depart from the traditional cost-based retrospective method of paying for hospital services, and instead, make payments based on rates determined before the services are provided. ***Findings/Conclusions:*** Twenty-six States have adopted various prospective ratesetting programs. These programs are designed to help control rising hospital costs by providing for an external authority to regulate the prices that hospitals may charge and/or that third parties must pay for specified services. States with such programs were more successful in controlling the growth rate in expenditures per case. Hospital officials in prospective ratesetting States believe they have been able to contain cost increases primarily as a result of improved hospital budgeting practices. The presence of an outside review authority forces hospital managers to closely review, and be prepared to justify, planned expenditures. Even though prospective ratesetting programs have restrained hospital expenditures and revenue increases, hospitals generally have not yet adopted cost containing management techniques. Hospitals in States with prospective payment programs do not use cost containment management practices, such as shared services, energy conservation, and individualized testing, to a significantly greater degree than hospitals in States without a program. The Health Care Financing Administration has made numerous grants to State health planning and development agencies to demonstrate the effectiveness of ratesetting as a means of controlling health care cost increases, however, it has limited authority under Medicare to participate in prospective ratesetting programs. ***Recommendation To Congress:*** Congress should amend the Social Security Act to permit the full participation of the Health Care Financing Administration's Medicare program in existing prospective ratesetting programs. ***Recommendation To Agencies:*** If Congress amends the Social Security Act to expand the Health Care Financing Administration's authority for Medicare participation in prospective ratesetting programs, the Secretary of the Department of Health and Human Services should increase the number of programs in which the Health Care Financing Administration is actively participating by making Medicare payments and permitting Medicaid payments based on program determined rates. The Secretary should promote and encourage greater use of cost containment management techniques. The Secretary should monitor the impact of prospective ratesetting programs on hospital cost increases and periodically report the results to Congress.

**113340**

***The Changing Airline Industry: A Status Report Through 1979.*** CED-80-143; B-197119. September 12, 1980. ***Released*** September 18, 1980. 21 pp. plus 2 appendices (2 pp.).
*Report* to Rep. Harold T. Johnson, Chairman, House Committee on Public Works and Transportation; Rep. Glenn M. Anderson, Chairman, House Committee on Public Works and Transportation: Aviation Subcommittee; Rep. Elliott H. Levitas; by Elmer B. Staats, Comptroller General.

**Issue Area:** Transportation Systems and Policies: Air Transportation System (2413); Economic Analysis of Alternative Program Approaches: Economic Effects of Government Regulations on Major Sectors or Industries (4061).
**Contact:** Community and Economic Development Division.
**Budget Function:** Transportation: Air Transportation (0405).
**Organization Concerned:** Office of Management and Budget; Civil Aeronautics Board; Air Transport Association.
**Congressional Relevance:** *House* Committee on Public Works and Transportation; *House* Committee on Public Works and Transportation: Aviation Subcommittee; *Rep.* Harold T. Johnson; *Rep.* Glenn M. Anderson; *Rep.* Elliott H. Levitas.
**Authority:** Airline Deregulation Act of 1978 (P.L. 95-504).
**Abstract:** GAO analyzed the changes in airline operations following the implementation of airline deregulation, as well as changes caused by other circumstances. Most 1980 data were not yet available, so the analysis was limited to data from 1978 and 1979. Four aspects of the industry's operations were analyzed: traffic, fares, profitability, and productivity. ***Findings/Conclusions:*** Since deregulation, airline traffic has increased substantially, outpacing the general economic indicators. Despite a shift in traffic away from the larger airlines, the smaller airlines' share of the market remains relatively small. Air fares have increased before and after deregulation but have not kept pace with airline costs and the consumer price index. The industry's rate of return on investment was higher in the 2 years after deregulation than in the prior 8 years. Two major factors that have contributed to moderating fare increases and increasing airline profitability in 1978-79 were improved airline productivity and favorable economic conditions. While it is hard to measure each factor's impact, it is clear that airline productivity has improved. Air service nationwide was up, as was the number of competitive markets. Single-plane service, which allows travelers to reach their destination without transferring planes, was also up. Small community air service patterns have shifted since airline deregulation. More service was provided to small communities from larger communities, but less direct service was provided between small communities. Through July 1980, 130 communities have been affected by some airline service termination, but the majority continue to receive air service by one or more certificated airlines. Deregulation appears to have had no adverse affect on levels of air safety.

**113341**

***[The Nuclear Regulatory Commission's Handling of Allegations of Defective Cable].*** EMD-80-115; B-200227. September 17, 1980. ***Released*** September 22, 1980. 3 pp. plus 1 enclosure (6 pp.).
*Report* to Rep. Leon E. Panetta; by J. Dexter Peach, Director, GAO Energy and Minerals Division.

**Issue Area:** Energy: Making Nuclear Fission a Substantial Energy Source (1608).
**Contact:** Energy and Minerals Division.

**Budget Function:** Energy (0270).
**Organization Concerned:** Nuclear Regulatory Commission; Raychem Corp.; Franklin Institute: Research Laboratories.
**Congressional Relevance:** *Rep.* Leon E. Panetta.
**Abstract:** GAO reviewed the circumstances surrounding the alleged defective cable supplied to five nuciear utilities during the period 1971 to 1975. The Nuclear Regulatory Commission (NRC) investigated the allegations from 1976 to 1977, and based on tests and other studies decided, in its technical judgment, that the cable was not defective. In conducting the review, GAO established three objectives: (1) understanding the events which triggered the allegations; (2) reviewing the investigation by NRC of the cable problem; and (3) evaluating the actions of the affected utilities. ***Findings/ Conclusions:*** GAO found that the handling of the investigation by NRC was extremely poor. Examples included: (1) the reluctance of NRC to issue a bulletin or an advisory informing affected utilities of a potential generic safety problem with the cable; (2) the lack of information on who had received the defective cable and in what quantity; and (3) the failure of NRC to inform the alleger of the results of its investigation or to prepare a summary document that closed out its investigation. The overriding issue was whether sufficient information was gathered and sufficient tests were made to determine the suitability and acceptability of the cable. NRC decided that the cable would safely meet intended use requirements and that the cable was not defective. GAO verified that the tests were made and had no basis to question the technical judgment of NRC.

**113342**
***[Guide to Information Sources in Audit References Services on U.S. Postal Service].*** August 1980. 4 pp.

**Contact:** Office of Information Systems and Services.
**Organization Concerned:** United States Postal Service.
**Abstract:** A GAO research guide on the U.S. Postal Service along with an analysis of the bulk mail system which is used in teaching auditing skills includes: (1) subject headings; (2) relevant texts; (3) GAO reports; (4) reports or projects done by the sister agencies of GAO; (5) publications which index other Government reports; (6) abstracting and indexing services; (7) selected journal articles; and (8) additional sources of information.

**113343**
***[Protest Contending That RFP Should Not Have Been Negotiated].*** B-197244.2. September 19, 1980. 2 pp.
*Decision* re: Chameleon Co., Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Chameleon Co., Inc.; Department of Health and Human Services; National Institutes of Health.
**Authority:** 55 Comp. Gen. 693. 56 Comp. Gen. 649. 56 Comp. Gen. 653. 56 Comp. Gen. 654. B-197244 (1980).
**Abstract:** A company requested reconsideration of a prior decision denying its protest. The protester asserted that the request for proposals should have been advertised rather than negotiated. GAO held that the agency's decision to use negotiation procedures, in lieu of small business restricted advertising, was not legally objectionable because the record indicated that the agency was purchasing management and technical competence along with labor and could not draft adequate specifications with respect to management capability. The protester contended that the GAO decision was inconsistent with two prior decisions which held that an agency may not use negotiation, in lieu of formal advertising, to obtain a desired higher level of quality of services. GAO disagreed with the protester. GAO held, in those two decisions, that Congress did not intend to allow agencies to negotiate contracts in order to obtain a particular quality of supplies or services when a lesser level of quality would satisfy the Government's needs. Accordingly, the protest decision was affirmed.

**113344**
***[Year End Spending Patterns for Six Object Classes in Eight Agencies].*** PAD-80-75. April 14, 1980. 2 pp. plus 1 enclosure (1 p.).
*Report* to Rep. Stewart B. McKinney; by Harry S. Havens, Director, GAO Program Analysis Division.

**Contact:** Program Analysis Division.
**Budget Function:** General Government: Central Fiscal Operations (0803).
**Organization Concerned:** Environmental Protection Agency; Department of Health, Education, and Welfare; Department of Housing and Urban Development.
**Congressional Relevance:** *Rep.* Stewart B. McKinney.
**Abstract:** As a preliminary response to a Congressman's request, data are provided on the spending patterns of eight Federal agencies and six object class categories for fiscal years 1977, 1978, and 1979. Dollar amounts and percentages were computed using figures contained in Treasury bulletins, but GAO did not verify the published data. Some of the amounts are questionable, so that an exercise of caution was advised for their use.

**113345**
***[Analysis of Requirements for Recurring Reports to the Congress].*** PAD-80-72; B-198190. April 18, 1980. 2 pp. plus 1 appendix (24 pp.).
*Report* to Sen. William V. Roth, Jr., Ranking Minority Member, Senate Committee on Governmental Affairs: Intergovernmental Relations Subcommittee; by Harry S. Havens, Director, GAO Program Analysis Division.

**Contact:** Program Analysis Division.
**Budget Function:** Congressional Information Services (1008).
**Congressional Relevance:** *Senate* Committee on Governmental Affairs: Intergovernmental Relations Subcommittee; *Sen.* William V. Roth, Jr.
**Authority:** Congressional Budget Act of 1974 (P.L. 93-344). Atomic Energy Act of 1954 (P.L. 86-43; 73 Stat. 73; 42 U.S.C. 2016). Energy Reorganization Act of 1974 (P.L. 93-438; 42 U.S.C. 5877(c)). 88 Stat. 1251.
**Abstract:** As part of its efforts to fulfill its responsibilities under the law, GAO maintains an inventory on congressional reporting requirements. This inventory, established in 1976, is the principal source used in its analysis of requirements for recurring reports. In response to a request from a Senator, information was compiled on congressional reporting requirements. ***Findings/Conclusions:*** Currently, the GAO database contains 2,039 reporting requirements. Three categories of cost information are maintained in the inventory: developmental, operational, and staff hours. The reported cost for these recurring reporting requirements is in the range of $20 million. Although executive departments, principal agencies, and commissions incurred approximately 90 percent of all costs associated with recurring reporting requirements, some of the most expensive reports were issued by other agencies. While there appeared to be some correlation between the agencies responding to the largest number of reporting requirements and the congressional committees responsible for these requirements, an analysis did not reveal a substantial amount of duplication or overlap; only 14 requirements appeared to overlap. This indicated that a number of requirements are designed to meet specific information needs and are not broad enough to support the needs of a number of congressional user groups.

**113346**

***[Parity and the Agricultural Sector].*** September 18, 1980. 7 pp. plus 5 attachments (5 pp.).

*Testimony* before the House Committee on Agriculture: Family Farms, Rural Development, and Special Studies Subcommittee; by Henry Eschwege, Director, GAO Community and Economic Development Division.

**Contact:** Community and Economic Development Division.
**Congressional Relevance:** *House* Committee on Agriculture: Family Farms, Rural Development, and Special Studies Subcommittee.
**Abstract:** GAO was asked to evaluate the concept of parity prices and to identify the impacts, particularly the secondary impacts, expected from parity-level price supports for agricultural products. Parity is generally expected to measure the economic well-being of the farm sector relative to other sectors. Changes in the parity ratio have tracked: (1) structural changes (as the ratio has fallen, so have the number of farms); (2) changes in farmers' margins on a per unit basis; and (3) net farm income from marketing receipts. However, parity does not adequately reflect total farm sector well-being, total personal income of farm families, or increased farm assets and equities. The trends in U.S. agriculture have been toward greater technological advances, declining margins, declining numbers of farms, and increasingly larger farms. The nation has generally benefited from these trends, but if the trends continue unabated, the secondary impacts may well be a loss of farm sector resiliency, a decline in rural viability, a cutback in efforts to conserve fertile soil, and less competition. Parity, by itself, is not a good indicator of secondary impacts. The impacts of parity-level price supports are difficult to assess under the evaluation and analytical techniques currently available. It is not known whether there would be more or less farmers or whether consumers would be better or worse off in the long run. However, it is known that consumers would pay more for food in the short term and that net farm income would rise. GAO concluded that Congress and other policymakers need, in addition to parity, a broader framework to use in developing, analyzing, and evaluating farm policies and programs. GAO proposed a framework that would assist in ensuring that all major impacts are systematically considered in formulating agricultural policy. The framework visualizes that economics, social soundness, environment, and politics all play overlapping roles in the process of determining a desired farm policy.

**113347**

***[Protest Against RFP Cancellation].*** B-198232. September 19, 1980. 6 pp.

*Decision* re: Nortec Corp.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Nortec Corp.; Sonic Instruments, Inc.; Department of the Navy: Aviation Supply Office, Philadelphia, PA.
**Authority:** D.A.R. 2-404.1. D.A.R. 2-503.1(h). B-184194 (1976). B-187159 (1977). B-187563 (1977).
**Abstract:** A firm protested the cancellation of a request for proposals (RFP) issued by the Navy's Aviation Supply Office for ultrasonic flaw detectors. Initially, the Navy anticipated that the procurement would be accomplished through two step formula advertising. When only the protester's technical proposal was determined acceptable, the contracting officer commenced negotiation with the protester by issuance of an RFP. Shortly after the firm submitted its offer, the Navy canceled the solicitation stating that the specifications were under review. The firm argued that the problems which the Navy discovered in its specifications should have been resolved by negotiation, rather than by cancellation of the RFP. It questioned whether the cancellation resulted from the undue influence of a supplier whose technical proposal had been found unacceptable. It also stated that despite an agreement that its offer would be held unopened, it was returned opened. This raised the possibility that its design approach and cost and pricing data might have been exposed to competitors. The Navy stated that it realized its specifications contained significant performance features which were not available in the flaw detector currently in use. Even if the specification problems were quickly resolved and the purchase description revised, extensive first article and reliability and maintainability testing would be required of any supplier. Since the Navy's need for the flaw detectors had become critical, the contracting officer determined to procure 43 of the items from the old supplier and to withhold purchase of the balance pending a review of the specifications. The criteria for cancellation of a formally advertised procurement are applicable to a cancellation of an RFP. A contracting officer has broad powers of discretion in deciding when a solicitation should be canceled, and GAO will not interfere with such a determination unless it is shown to be unreasonable. GAO has held that while it may be appropriate to make some changes in the terms or specifications of an RFP by amendment, substantial changes in the specifications may justify cancellation of the RFP. GAO found that the Navy acted reasonably in canceling the RFP to further review and revise the specifications. GAO found no indication to confirm the protester's concern that its design concept or cost and pricing data were disclosed to competitors. The protest was denied.

**113348**

***[Protest Alleging Solicitation Improprieties].*** B-200020. September 18, 1980. 1 p.

*Decision* re: Technical Services Co., Inc.; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Technical Services Co., Inc.; Bureau of Indian Affairs.
**Authority:** 4 C.F.R. 20.2(b)(1). B-199670 (1980).
**Abstract:** A firm protested that a specification contained in an invitation for bids, which required the use of a name brand product, restricted competition. As the protest concerned alleged improprieties in the solicitation which were apparent prior to bid opening, the protest should have been filed prior to bid opening. As the protest was received later than that date, the protest was untimely and not for consideration on the merits.

**113349**

***[Request for Reconsideration].*** B-196829.2. September 18, 1980. 5 pp.

*Decision* re: A & C Building and Industrial Maintenance Corp.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** A & C Building and Industrial Maintenance Corp.; Department of Labor; General Services Administration.
**Authority:** Service Contract Act of 1965. 29 C.F.R. 4.4. B-196829 (1980).
**Abstract:** A firm requested reconsideration of a GAO decision concerning its protest which contended that a solicitation and the accompanying Service Contract Act wage determination were defective because the form did not itemize job categories. It contended that the contracting officer erred in not specifying on the form that landscaping, as well as other job categories, would be involved in the contract performance. The Department of Labor had directed the agency to withhold money from the firm on a prior contract because the firm had failed to pay its workers in accordance with the rate set forth in the contract's wage determination. As a result of this prior experience, the firm believed that it was at

a competitive disadvantage which the contracting officer should have rectified by itemizing the job categories in the form so that Labor could issue an appropriate wage determination for those categories. GAO could not conclude that the contracting officer knew of these matters at the time he submitted the form to Labor, or at the time he issued the invitation for bids. The firm should not have been at a competitive disadvantage vis-a-vis other bidders. Both the protester and any other bidder should have known that, if it intended to use a classification not listed in the wage determination, it would be bound to pay the other rate. GAO affirmed its prior decision.

**113350**

***[Protest That Sole-Source Award of Contract Was Improper].*** B-199935. September 18, 1980. 2 pp.

*Decision* re: Houston Fearless 76, Inc.; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Houston Fearless 76, Inc.; Department of the Air Force.
**Authority:** 4 C.F.R. 20.2(a). 4 C.F.R. 20.2(b)(2). 58 Comp. Gen. 248. B-198434 (1980).
**Abstract:** A firm protested an Air Force sole-source award of a contract. Notice of the award was published in the Commerce Business Daily. The firm protested initially to the Air Force, and it denied the protest. GAO bid protest procedures require that protests, other than those based upon alleged improprieties apparent in a solicitation, be filed with GAO or the contracting agency within 10 working days after the basis of the protest is known or should have been known. When a protest is filed initially with the contracting agency, GAO will consider a subsequent protest only if the protest to the agency was timely. The firm had constructive notice through the announcement in the Commerce Business Daily. It did not file its protest with the Air Force until 18 working days after the publication of the announcement; thus, the protest was untimely and not for consideration on the merits.

**113351**

***[Protest of Late Proposal Rejection].*** B-200164. September 18, 1980. 2 pp.

*Decision* re: Satellite Systems Engineering, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Satellite Systems Engineering, Inc.; Department of Commerce.
**Authority:** B-193870 (1979). B-194347 (1979). B-195388 (1979).
**Abstract:** A firm protested the refusal of the Department of Commerce to consider its proposal submitted in response to a solicitation. Although the proposal was submitted late, the protester contended that the reason for the delay was due to circumstances beyond its control, and therefore, Commerce should not have precluded it from consideration. GAO found that the circumstances provided no basis for permitting consideration of a late proposal. The protest was denied.

**113352**

***[Protest Involving Issues in Litigation].*** B-197872. September 18, 1980. 9 pp.

*Decision* re: Systems Consultants, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Systems Consultants, Inc.; Department of Energy; United States District Court: District of District of Columbia; Meteor Communication Consultants; Defense Contract Audit Agency.
**Authority:** 41 C.F.R. 9-3.805-50(e). 41 C.F.R. 9-3.800. 13 C.F.R. 125.5. 54 Comp. Gen. 896. 58 Comp. Gen. 105. F.P.R. 1-3.807-2(a). F.P.R. 1-1.12. Systems Consultants, Inc. v. United States, Civ. Act. No. 80-869 (D.D.C. 1980). Keco Industries, Inc. v. United States, 492 F.2d 1200 (Ct. Cl. 1974). B-197035 (1980).
**Abstract:** A firm protested the Department of Energy's (DOE) selection of another firm for final negotiations and eventual award of a contract. The request for proposals (RFP) solicited a communications system to provide the interexchange of teletype messages between designated DOE offices. The protest was also the subject of litigation, and the court expressed an interest in a decision by GAO. An initial evaluation ranked the protester's technical proposal slightly higher than the awardee's, and disclosed that the proposed awardee offered a cost-plus-fixed-fee proposal instead of the required firm-fixed-price proposal. However, after best and final offers were solicited from both firms, the proposed awardee submitted a firm-fixed-price revised proposal significantly lower in price than the protester's. A preaward survey concluded that the proposed awardee could comply with the RFP requirements and recommended complete award. The protester contended that the RFP required an analysis of total proposed price which had to be completed prior to the selection of an offeror for final negotiations, regulations required the contracting officer to make a conclusive responsibility determination of the awardee before final negotiations; and either the awardee's proposal did not satisfy the technical requirements of the RFP, or DOE had relaxed the requirements without giving the protester an equal opportunity to revise its offer. The DOE conclusion that the lower price offered was viable and reasonable was confirmed by an in-depth audit performed by the Defense Contract Audit Agency which eliminated any prejudice to the protester in the conclusions of the DOE preselection analysis. Regulations do not require that a conclusive responsibility determination be made prior to the selection of an offeror for final negotiations. The protester's assumptions as to the alleged relaxing of the RFP requirements or the nonresponsiveness of the awardee's proposal were found to be misconceptions since it did not have access to the evaluation documents or the selected proposal. The GAO review disclosed nothing to contradict the DOE finding that the awardee's technical proposal complied with the RFP requirements. Acccordingly, the protest was denied.

**113353**

***[Use of Appropriated Funds To Buy Robes for Administrative Law Judges].*** B-199492. September 18, 1980. 2 pp.

*Decision* re: Occupational Safety and Health Review Commission; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: General Government Matters.
**Organization Concerned:** Occupational Safety and Health Review Commission.
**Authority:** Employees' Uniform Allowance Act (5 U.S.C. 5901). (P.L. 96-123; 93 Stat. 923). 35 Comp. Gen. 306. 57 Comp. Gen. 379. OMB Circular A-30. H.R. 4389 (96th Cong.)
**Abstract:** The Director, Office of Financial Management, Occupational Safety and Health Review Commission, asked if appropriated funds may be used to buy robes for Administrative Law Judges (ALJ's) to wear in the performance of their duties. Laws, regulations, and decisions establish two conditions that must be satisfied before uniforms may be furnished or uniform allowances paid. First, there must be an appropriation which is specifically made available for uniforms or uniform allowances. Second, unless there is a statutory requirement, the agency or department head must make a determination that employees are required to wear a uniform. A provision of the current Commission appropriation satisfies the first condition in stating that "Appropriations contained in this Act, available for salaries and expenses shall be available for

uniforms or allowances therefor as authorized by law." As long as this provision is included in annual appropriation acts for the Commission, its funds may be expended for uniforms or uniform allowances. The request did not state whether the head of the Commission has determined that its ALJ's are required to wear robes. If the head of the Commission has determined or does determine that it is required that the Commission's ALJ's wear robes, then its funds may be expended for this purpose.

**113354**

***[Protest of Proposal Rejection for Lateness].*** B-200159. September 18, 1980. 2 pp.

*Decision* re: Rally Enterprises; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law Control Group.

**Organization Concerned:** Rally Enterprises; General Services Administration.

**Authority:** F.P.R. 1-3.802.1.

**Abstract:** A firm protested the rejection of its proposal by the General Services Administration (GSA). The protester asserted that its late proposal should have been considered because: (1) it did not have sufficient time to prepare its offer; (2) it was not aware of a new regulation regarding consideration of late proposals; and (3) GSA was unfair in imposing the unduly onerous requirements of the new regulation because of the short response time. GAO found that the "new regulation" was actually the recently adopted GSA policy for imposing the standard late proposal rules on its multiple-award-schedule contract solicitations. These rules were prominently set forth in the solicitation. Under those rules, a late proposal sent by mail could only be considered if it had been sent by registered or certified mail at least 5 days prior to the date for receipt of proposals. Therefore, the contracting officer was legally required to reject the instant proposal which was sent by regular mail. Accordingly, the protest was summarily denied.

**113355**

***[Protest Against Agency Determination of Nonresponsibility].*** B-199719. September 18, 1980. 2 pp.

*Decision* re: Fifth Generation Systems, Inc.; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I.

**Organization Concerned:** Fifth Generation Systems, Inc.; Department of the Air Force: Lowry AFB, CO.

**Authority:** Small Business Act (15 U.S.C. 637(b)(7)). D.A.R. 1-705.4(c). B-196780 (1980). B-196986.2 (1980).

**Abstract:** A small business firm protested the rejection of its bid by the Air Force. The firm believed that the preaward survey was the basis for the determination that it was nonresponsible, and alleged that the preaward survey was conducted by a technically unqualified person who did not understand the quality control system used by the protester. Pursuant to the Small Business Act, no small business concern may be precluded from award because of nonresponsibility without referral of the matter to the Small Business Administration (SBA) for final disposition under the certificate of competency (COC) procedure. The Air Force referred the matter to SBA. However, the protester failed to file a COC application. GAO will not review a contracting officer's determination of nonresponsibility, because SBA has the specific authority to review such decisions. Accordingly, the protest was dismissed.

**113356**

***[Protest of Bid Rejection as Nonresponsive].*** B-199368. September 18, 1980. 5 pp.

*Decision* re: Hub Testing Laboratories; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.

**Organization Concerned:** Hub Testing Laboratories; Forest Service.

**Authority:** F.P.R. 1-1.708-2. B-196914 (1980). B-197414 (1980). B-191289 (1978). B-193089 (1979). B-196780 (1980). 15 U.S.C. 637(b)(7).

**Abstract:** A firm protested the rejection of its low bid under an invitation for bids (IFB) issued by the Forest Service for the geotechnical analysis of sediment, soil, and rock samples. The IFB technical requirement section specified required methods of sample preparation and analysis. The IFB also required all bidders to provide a description of the methods to be used in the preparation and analysis of the rock, stream sediment, and soil samples. The Forest Service found the protester's responses inadequate because they merely restated the IFB technical requirements without providing more specific information regarding which type of preparation or analysis would be used for each specific element or sample. The Forest Service asserted that without such information it could not be sure that the bidder would provide performances meeting the Government's requirements. It argued that the protester's failure to provide exact information rendered the firm's bid nonresponsive. The test of responsiveness in formal advertising, however, is whether the bidder has offered to do what is required by the solicitation, and not whether the bidder's proposed method of performance is satisfactory. A contracting agency cannot make a matter of responsibility into a question of responsiveness by the terms of the solicitation. The question of how the firm intended to fulfill its obligation to properly prepare and analyze samples involved the firm's responsibility, not the responsiveness of the bid. GAO believed that the determination of nonresponsiveness was in error and that the protester should be referred to the Small Business Administration for the possible issuance of a Certificate of Competency (COC). If a COC is issued, the current contract should be terminated for the convenience of the Government, and the award made to the protester for the remaining portion of the terminated contract. The protest was sustained.

**113357**

***[Status of Special National Direct Student Loan Funds].*** HRD-80-125; B-200138. September 22, 1980. 3 pp. plus 1 enclosure (1 p.).

*Report* to Shirley M. Hufstedler, Secretary, Department of Education; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Accounting and Financial Reporting: Systems To Insure That Amounts Owed the Federal Government Are Fully and Promptly Collected (2803); Education: Quality of Life of Children and Their Families (3305).

**Contact:** Human Resources Division.

**Budget Function:** Education, Training, Employment and Social Services: Higher Education (0502).

**Organization Concerned:** Department of Education; University of Illinois, Chicago, IL.

**Authority:** Higher Education Act of 1965 (20 U.S.C. 1061).

**Abstract:** The National Direct Student Loan (NDSL) program provides for establishing a revolving fund at postsecondary educational institutions from which long-term, low-interest loans are made to qualified students who need financial assistance. The institutions are responsible for making and collecting the loans. Under the NDSL program, the Federal contribution represents 90 percent of the loan funds, and the institution provides the other 10 percent. The Higher Education Act of 1965 allowed institutions to use up to 25 percent of the Educational Opportunity Grant funds paid to them before July 1, 1970, as an additional Federal contribution for their loan programs. Institutions established special NDSL funds

with this additional Federal contribution. Unlike the Federal contribution to the regular NDSL program, institutions were not required to match the contribution to the special NDSL fund. GAO recently initiated a survey of the effectiveness of educational institutions' efforts to collect defaulted NDSL's. The survey included five institutions, each with an NDSL default rate of at least 25 percent, and defaults totaling $100,000 or more. ***Findings/ Conclusions:*** A special NDSL fund was established at 25 institutions. A special fund totaling $272,000 at the University of Illinois was one of the largest. Institutions were given an opportunity in 1972 to merge their special funds with their regular NDSL funds by providing institutional funds equal to one-ninth of the amount transferred to their regular funds. Fourteen schools elected to merge their funds, while the other 11 schools maintained their special funds. One of these 11 schools was the University of Illinois. Separate fiscal operations reports for the regular and special funds were maintained at the University. According to the fiscal operations report on the special fund, only one loan has been made from the special fund since fiscal year 1976, and on June 30, 1979, the cash balance in the fund was about $60,000. This balance, which was about $21,000 as of June 30, 1976, has increased as a result of repayments of principal and interest on outstanding loans. The University does not anticipate any further need for the special fund because sufficient funds exist in its regular NDSL fund. GAO also reviewed fiscal operations reports submitted by four other institutions that established special funds which initially totaled $547,000. These reports showed the status of each institution's NDSL fund as of June 30, 1979, but did not indicate which transactions, if any, applied to the institution's special NDSL funds. Accordingly, GAO was unable to determine from these reports the status of the special funds at these institutions. ***Recommendation To Agencies:*** Inasmuch as the special fund at the University of Illinois has been inactive for several years, the Department of Education should ascertain from the University its plans for using the fund and, if there are no plans for further use of it, require the University to return to the Federal Government the unused balance of the funds along with subsequent loan collections. The Department should also review the status of special NDSL funds at the other 10 institutions and, where appropriate, similarly require that funds be returned to the Government.

**113358**

***Flexible Management: A Must for Effective Armed Services Recruiting.*** FPCD-80-64; B-199870. September 18, 1980. 36 pp. plus 2 appendices (8 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Personnel Management and Compensation: Defense Manpower Management (0320).
**Contact:** Federal Personnel and Compensation Division.
**Budget Function:** National Defense: Department of Defense - Military (except procurement and contracts) (0051).
**Organization Concerned:** Department of Defense; Selective Service System; Department of the Air Force; Department of the Army.
**Congressional Relevance:** *Senate* Committee on Appropriations: Defense Subcommittee; *Senate* Committee on Armed Services: Manpower and Personnel Subcommittee; Congress.
**Abstract:** The effectiveness and integrity of recruiting programs in the armed services are influenced to a very large degree by policy and resource allocation decisions made within the Office of the Secretary of Defense (OSD) and the service headquarters. If recruiting managers and other involved officials have increased flexibility to appropriately adapt policy and resources to ever-changing conditions of market supply and demand, recruiting goals can be accomplished and malpractice and other irregularities reduced. A GAO review critiqued five management factors in decisionmaking processes involving OSD and service staff relationships. ***Findings/Conclusions:*** Perhaps the greatest stumbling block to achieving recruiting goals is the inflexibility inherent in the management of service recruiting programs. This inflexibility is particularly evident in: (1) the absence of readily available nonmonetary policy-change alternatives which can be used as management tools within existing funding levels; and (2) the insistence that the recruiting objectives be fixed well in advance, although properly matching recruiting resources and nonmonetary policies to these goals is generally not possible because of the uncertainties of congressional action and the recruiting marketplace. In addition, the requirement for all services to obtain congressional committee approval for spending additional recruiting funds through reprogramming, no matter how small the amount, hinders management's ability to quickly adjust its recruiting program to developing problems. ***Recommendation To Agencies:*** The Secretary of Defense should: (1) monitor the services' implementation of the recruiting objectives as stated in the Consolidated Guidance, related documents, and service program objective memorandums, to determine that the guidances are being interpreted with reasonable flexibility; (2) improve the recruiting data monitoring and analysis within OSD by obtaining more staff and more funds for such activities, including long-range analyses; (3) direct each service to develop a formal plan concerning nonmonetary, standby enlistment initiatives which recruiting managers can use to quickly adjust to changes in the recruiting marketplace; (4) direct the Army to improve recruiting data gathering and analysis in the National Guard and Reserve; and (5) direct the Army and the Air Force to further integrate their Active, Reserve, and National Guard decisionmaking activities.

**113359**

***U.S. Fast Breeder Reactor Program Needs Direction.*** EMD-80-81; B-199272. September 22, 1980. 50 pp. plus 2 appendices (4 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** International Affairs: International Security Through Controls (0607); Energy: Prospects for Transition to Essentially Inexhaustible Energy Resources (1612).
**Contact:** Energy and Minerals Division.
**Budget Function:** Energy: Energy Supply (0271).
**Organization Concerned:** Department of Energy; Nuclear Regulatory Commission.
**Congressional Relevance:** Congress.
**Abstract:** The Administration and Congress have not been able to agree on the future role of fast nuclear breeder reactors. They cannot decide whether to rely on nuclear power as a long- or short-term energy supply source. If a long-term future for nuclear power is desired, or even if a nuclear option is to be maintained, construction and operation of a fast breeder demonstration plant is needed. The date for the commercialization of the liquid metal fast breeder reactor (LMFBR) has been postponed from 1986 to about 2020. The reasons given for the delay included concern that plutonium-based nuclear fuels may lead to international nuclear weapons proliferation, projections supporting a diminished need for commercial breeder reactors, projections that LMFBR's would not become economically competitive for several decades, questions about the safety of LMFBR's, and the belief that the Clinch River Breeder Reactor was too small, too costly, and technically obsolete. In fiscal year 1981, the Department of Energy (DOE) is planning to terminate its participation in the gas-cooled fast breeder reactor program while continuing to fund the light water breeder reactor program. But the light water breeder reactor program cannot be viewed as an alternative or backup to LMFBR's because its objective and purpose are different. DOE withdrawal from participation in the technology development program will probably cause the collapse of the industrial infrastructure that has grown in support of the program, and consequently, the only nuclear alternative to the LMFBR program will be lost. ***Findings/Conclusions:*** GAO believes that the current strategy of postponing the commercialization date of the LMFBR program will not necessarily enable this country to

achieve its nonproliferation goals. The projections of the availability of uranium are uncertain. Unanticipated events could increase the future demand for nuclear energy and the need for an early commercialization of breeder reactors. The ultimate economics of the LMFBR program are difficult to accurately project. The LMFBR is no more or less safe than the current generation of light water reactors. The LMFBR program lacks a clear mission. The disagreement between Congress and the Administration has made planning and directing the program difficult for DOE. Recent actions by the Administration underscore its desire to kill the Clinch River project and to defer any commitment for a substitute plant. A strong LMFBR program includes constructing and operating a plant, something which has not been done. A backup technology should be available for development in case the LMFBR program fails to meet its objectives. ***Recommendation To Congress:*** If Congress wishes to maintain a nuclear option, or if it wishes to commit to nuclear power as a long-term energy source, it should require DOE to demonstrate the viability of the LMFBR technology by mandating the construction of a breeder reactor facility. GAO is not necessarily advocating the completion of the Clinch River project as the only means of moving the program forward. The only resolution may be to move ahead with a larger, more recently designed facility instead of the Clinch River Project. Congress may wish to make it clear that it is not adopting a policy that would encourage premature commercial breeder deployment in this country. A commitment to a long-term nuclear option should include continued support for the gas-cooled fast breeder reactor program. Congress should continue to fund the program at least until the program reaches a decision point on whether to construct and operate a demonstration facility. If Congress cannot reach a resolution on whether to preserve the breeder option or if it does not wish to do so, it should consider terminating the breeder program.

**113360**

***Navy Has Housing Problems at Virginia Beach and Scrap Metal Disposal Problems at Sewells Point.*** PSAD-80-73; B-199875. September 19, 1980. 39 pp. plus 2 appendices (3 pp.).
*Report* to Rep. G. William Whitehurst; by Milton J. Socolar, Acting Comptroller General.

**Issue Area:** General Procurement: Improving Systems To Direct/Prevent Fraud and Corrupt Practices (1918).
**Contact:** Procurement and Systems Acquisition Division.
**Budget Function:** National Defense: Department of Defense - Procurement & Contracts (0058).
**Organization Concerned:** Department of Defense; Department of the Navy; Defense Logistics Agency; Department of the Navy: Naval Facilities Engineering Command: Atlantic Division.
**Congressional Relevance:** *Rep.* G. William Whitehurst.
**Authority:** P.L. 96-226. DOD Disposal Manual 4160.21-M. DOD Directive 4165.60.
**Abstract:** Although it is less than 2 years old, the Carper housing complex has had numerous maintenance problems. The total amount of maintenance costs could not be validated because of errors in the Navy's cost accounting systems. At Sewells Point, the Navy is violating DOD regulations by letting a contractor keep valuable scrap metal. Excess personal property, including scrap metal, should be turned into the Defense Property Disposal Office. ***Findings/Conclusions:*** The Navy is not turning the scrap metal in because it believes it is more cost effective to contract for disposal. Lack of information on the amount and value of scrap metal makes it impossible for the Navy to ensure that the Government is getting fair value on its disposal. Regulations clearly state that it is the agency's responsibility to segregate scrap and waste to the maximum extent feasible and to turn the scrap metal into the Defense Property Disposal Office. Navy officials state they are now requiring the scrap contractor to keep a log and will use that data to make another economic study of the costs. The scrap metal contractor told GAO that it will be impossible for the Navy to assess the value of the scrap metal from the data being collected. Although construction standards exist for many of the major problem areas at Carper, they are not always adequate to ensure quality housing. Standards existed for some problem areas, and none existed for others. Even when standards were specific, they were not always sufficient or enforced. The system for evaluating proposals encourages contractors to include amenities rather than raise construction quality above the minimum standards. At Carper, inspection was inadequate. Inspectors from other Navy housing projects noted inadequacies with the construction standards and with the contractors' inspection program. GAO concluded that the Navy's experience at Carper was not unique. GAO believes that the Navy should contact manufacturers to repair products under warranty or insist that the construction contractor do so. ***Recommendation To Agencies:*** The Secretary of the Navy, when planning new housing projects, should identify, based on past experience and expected use, those items likely to require considerable maintenance if only the minimum standards are met. Within funding constraints, he should specify higher requirements in requesting contract proposals for those items whose expected maintenance costs over the life of the project exceed the additional cost of the more durable items. He should summarize for the Department of Defense (DOD) the problems experienced with marginal construction standards, the bid evaluation system, and the contractor quality control programs, including Carper, and suggest to DOD that it determine whether these problems are widespread and need correction. The Secretary should require that inspectors and maintenance personnel contact manufacturers before paying for problems which should have been covered by warranty, but which the contractor refuses to do. He should require construction personnel to provide maintenance personnel with a complete list of applicable warranties at the time of occupancy to reduce the likelihood of paying for work which should be covered by warranty. He should require maintenance personnel to keep records of all work paid for which should have been covered by warranty so that claims or counterclaims can be instituted by the Government. The Secretary of the Navy should direct the Commander of the Atlantic Division, Naval Facilities Engineering Command, to use either Navy personnel or to pay a contractor to collect, sort, and deliver the scrap metal from Sewells Point to the Defense Property Disposal Office, or request an exemption to the DOD regulations for a contractor to keep the scrap metal only if the Public Works Center (1) collects adequate data to show the cost effectiveness of doing so, and (2) establishes an adequate system to monitor the contract and assess the value of scrap metal being collected.

**113361**

***[Protest Alleging That Contractor Will Not Perform in Accordance With Contract Specifications].*** B-200261. September 23, 1980. 1 p.
*Decision* re: Anderson's Complete Cleaning Services; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Veterans Administration; Anderson's Complete Cleaning Services.
**Authority:** B-198418 (1980). B-192534 (1979).
**Abstract:** A firm protested the award of a contract by the Veterans Administration. The protester claimed that the contract was awarded unjustly, and that the awardee was not performing in accordance with the specifications of the contract. The firm did not explain why the award itself was unjust. The issue of whether the awardee performs in accordance with contract requirements is a matter of contract administration, which is the function and responsibility of the procuring agency. The protest was dismissed.

**113362**

***[Protest Against Rejection of Bid].*** B-199138. September 23, 1980. 6 pp.

*Decision* re: Trident Industrial Products, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Special Studies and Analysis.

**Organization Concerned:** Trident Industrial Products, Inc.; General Services Administration.

**Authority:** 59 Comp. Gen. 43. B-194054 (1979).

**Abstract:** A firm protested the rejection of its bid because the General Services Administration (GSA) found that the protester did not satisfy the requirements of the qualified products list (QPL) clause of the invitation for bids (IFB). The protester proposed to furnish a corrosive prevention compound produced by a qualified manufacturer, but intended to package it in pressurized aerosol cans. It intended to fill and pressurize the cans itself. The contracting officer rejected the firm's bid because it was not a qualified aerosol manufacturer, and the filled aerosol can was not a qualified product. GSA contended that the filling and pressurizing of the cans was a manufacturing process rather than a packaging process, and that the filled and pressurized can was the product or end item under the QPL. GAO felt that the fundamental question to be addressed was whether the essential needs of the Government, as reflected in the QPL, would be satisfied by the offered product. The IFB called for two items of corrosion preventive in pressurized form and stated that a QPL qualification was required for all items. The QPL qualification of the product in pressurized form is dependent upon its ability to pass additional applicable specialized tests, which establish criteria peculiar only to pressurized cans. Transferring a basic product, which qualified in bulk form, into pressurized containers amounts to more than repackaging a qualified product and has an affect on the qualified status of the end product. Since the protester's product had been subjected to only those tests for the basic material, but not those established for aerosol cans, GAO concluded that the protester was not offering to supply the qualified product, and GSA acted reasonably in rejecting the protester's bid as nonresponsive. Controversy existed over the oral advice which GSA contracting officers gave the protester about conformation with the QPL. The IFB clearly stated that oral explanations or instructions given before award would not be binding, and any explanation desired regarding the meaning of the solicitation must be requested in writing. GSA correctly found the firm's bid nonresponsive. GAO found no merit to the firm's argument that it was misled by GSA contracting personnel. The protest was denied.

**113363**

***[Request for Reimbursement of Loan Origination Fee].*** B-198296. September 23, 1980. 4 pp.

*Decision* re: Algis G. Taruski; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters I.

**Organization Concerned:** Department of the Army: Office of the Chief of Engineers: Resources Management Office; General Services Administration; Federal Reserve System.

**Authority:** Truth in Lending Act (P.L. 90-321; 15 U.S.C. 1601 et seq.). 12 C.F.R. 226.4. F.T.R. para. 2-6.2d. B-194072 (1979). B-196402 (1980).

**Abstract:** A financing officer requested a decision on the propriety of paying a voucher for a loan origination fee when the employee had not provided an itemization of the fee to show which portions, if any, were reimbursable. The employee had incurred a charge for a loan origination fee upon purchasing a residence at his new duty station. The amount of the loan origination fee was disallowed by the agency on the basis that GAO had ruled that loan origination fees may not be reimbursed since they represent finance charges. The employee was advised that if he would itemize the separate items of the fee, the agency would reconsider his voucher to determine if any of the items were reimbursable. Instead of providing an itemization, the employee argued that the fee did not represent a finance charge but was a charge to defray the administrative cost of making the loan. He also argued that GAO decisions regarding loan origination fees did not reflect current financial conditions and alleged that the Federal regulations applicable to this matter are internally inconsistent. GAO believed it was clear that the loan origination fee paid by the employee was a finance charge. GAO has no authority to waive Federal Travel Regulations, these are the responsibility of the General Services Administration (GSA). Since the employee's argument lies in policy rather than the application of the law, he should address his arguments to GSA, and questions concerning inconsistencies in the Code of Federal Regulations to the Board of Governors of the Federal Reserve System.

**113364**

***[SBA Leveraging Policy].*** B-197439. September 18, 1980. 2 pp.

*Letter* to Rep. Charles B. Rangel; by Harry R. Van Cleve (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Special Studies and Analysis.

**Organization Concerned:** Small Business Administration.

**Congressional Relevance:** *Rep.* Charles B. Rangel.

**Authority:** Small Business Act. B-194739 (1980).

**Abstract:** Clarification was given regarding a recent GAO decision which held that, absent of a specific statutory provision to the contrary, the Small Business Administration (SBA) lacks authority to leverage against Federal funds invested in minority-enterprise small-business investment companies. The statute, generally applicable to leveraging investments in minority-enterprise small-business investment companies, limits the leverage to investments made by private, non-Federal sources. GAO did not address implementation of its decision, as that was initially a matter for the agency to determine, and GAO had no precise information about leveraging commitments to individual minority-enterprise small-business investment companies.

**113365**

***[Protest Alleging Improper and Unfair Evaluation of Proposal].*** B-199120. September 23, 1980. 8 pp.

*Decision* re: Sheldon G. Kall; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Special Studies and Analysis.

**Organization Concerned:** Small Business Administration; Raven Management Associates, Inc.

**Authority:** Freedom of Information Act. Small Business Act (15 U.S.C. 636(i) et seq.). 4 C.F.R. 20.2(b)(2). 57 Comp. Gen. 244. 57 Comp. Gen. 250. F.P.R. 1-3.805-1. B-186125 (1976). B-194275 (1979). B-194157.2 (1980). B-194519 (1980). B-196105 (1980). B-196279 (1980). B-196499 (1980).

**Abstract:** A management consultant protested the award of a cost-type contract under a request for proposals (RFP) issued by the Small Business Administration (SBA). The protester alleged that his proposal was improperly and unfairly evaluated, and that the use of experience in Government contracts as a criteria gave an unfair advantage to prior successful bidders. He protested that SBA refused to provide him with adequate information concerning how his proposal was evaluated, and questioned the evaluation of his proposal from both a technical and cost standpoint. GAO does not conduct reviews of technical proposals or make independent determinations of their acceptability or relative merit except where

there is a clear showing of unreasonableness, abuse of discretion, or violation of procurement regulations. The record shows that the technical evaluation was conducted in accordance with the RFP. The protester argued that the cost evaluation scheme employed by SBA was defective. Agencies have broad discretion to determine how and to what extent they will point-score price proposals, and a generally accepted approach was used here. GAO could not conclude that the price evaluation scheme used in this case produced a distorted result. In response to the protest concerning its use of experience in Government contracts as a criterion, SBA stated that only 10 percent of the total points available were related to prior experience in Government contracts. GAO found that the criterion was not related to the offeror's having previously held Government contracts, but instead was related to his experience in providing guidance in the matter of seeking and executing Federal contracts. SBA had denied a request for information concerning the proposal evaluation process. Since the factors used by SBA in evaluating the proposals were sufficiently set forth in the RFP, the protester was not denied information concerning the criteria applied. His protest that no oral or written discussions were held with him was untimely as it was filed more than 10 days after the basis of the protest was known. The protest was denied in part and dismissed in part.

**113366**

***[Promotion of Officers by Department of Navy].*** B-198821. September 18, 1980. 6 pp.

*Letter* to Rep. William L. Dickinson; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters II.
**Organization Concerned:** Department of the Navy.
**Congressional Relevance:** *Rep.* William L. Dickinson.
**Authority:** 57 Comp. Gen. 125. A.R. 135-155, para. 3-14. A.R. 624-100, para. 2-8(c). A.F.R. 36-89. 410 Op. Att'y Gen. 10. Doyle v. United States, 599 F.2d 984 (Ct. Cl. 1979). 10 U.S.C. 1552. 10 U.S.C. 3297. 10 U.S.C. 543.

**113367**

***[Changes to Consolidated List of Current Debarments].*** B-3368. September 15, 1980. 6 pp.

Heads of Departments, and Independent Establishments, Other U.S. Agencies, District of Columbia; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Procurement Law I.
**Abstract:** Changes are presented to the list of persons or firms currently debarred for violations of various public contracts acts incorporating labor standards provisions.

**113368**

***[Request for Reconsideration].*** B-197236.4, B-197236.5. September 22, 1980. 3 pp.

*Decision* re: Jerry's U-Drive, Inc.; George Corp.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Jerry's U-Drive, Inc.; George Corp.
**Authority:** 4 C.F.R. 20.2(b)(1). 54 Comp. Gen. 66. F.P.R. 1-1.1205-2. B-196394 (1980).
**Abstract:** Two firms requested reconsideration of a decision dismissing their protests against contract awards for vehicle rentals to another firm. The protests were dismissed because they were based on allegations that the awardee was nonresponsible. GAO does not review matters concerning affirmative determinations of responsibility. In their requests for reconsideration, the protesters contended that the decision misconstrued their positions and did not address several points presented. However, they did not present any persuasive reason as to why the decision was legally incorrect. One protester stated that it had sought clarification from the contracting officer prior to bid opening as to the specifications, but was unable to get a definitive answer and did not protest this before the bid opening date. Protests based on alleged improprieties in a solicitation must be filed prior to bid opening. Since the protester knew of the alleged ambiguities in the solicitation and did not protest before bid opening, the issue was untimely. Accordingly, the prior decision was affirmed.

**113369**

***[Protest of Army Contract Award].*** B-199934. September 22, 1980. 3 pp.

*Decision* re: Keco Industries, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Keco Industries, Inc.; Department of the Army: Army Troop Support and Aviation Materiel Readiness Command, MO.
**Authority:** Walsh-Healey Act (Government Contracts) (41 U.S.C. 35 et seq.). 55 Comp. Gen. 469. 53 Comp. Gen. 102. 59 Comp. Gen. 140. B-197612 (1980). B-195956 (1980). B-187070 (1977). B-194157 (1980). 15 U.S.C. 637(b).
**Abstract:** A firm protested the award of an Army contract to another company. The protester alleged that the awardee was not a small business; was not the manufacturer of the items being procured under the contract, as required by the Walsh-Healey Act; was not a responsible bidder; and did not submit a responsive bid. GAO does not review size status protests since the Small Business Administration (SBA) has the power to conclusively determine matters of small business size status for Federal procurements. Neither does GAO consider whether a bidder is a manufacturer within the meaning of the Walsh-Healey Act, as that, by law, is for the contracting agency's determination, subject to review by SBA and the Secretary of Labor. The protester stated that the awardee's failure to specify in its bid the place where production would be performed, as required by the invitation for bids, rendered its bid nonresponsive and the firm nonresponsible. Usually, the place of production or performance is a matter of bidder responsibility, not bid responsiveness. GAO does not consider a contracting officer's affirmative determination of responsibility unless there is a showing of possible fraud or bad faith, or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Neither exception appeared to exist in this case. The protest was dismissed in part and summarily denied in part.

**113370**

***[Claim of Mistake in Bid].*** B-199788. September 22, 1980. 2 pp.

*Decision* re: Will Ross, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Will Ross, Inc.; Veterans Administration: Marketing Center, Hines, IL.
**Authority:** B-196726 (1980). B-196711 (1979).
**Abstract:** A contractor requested relief, claiming a mistake in its bid, after being awarded a contract to supply hypodermic syringes to the Veterans Administration (VA). The solicitation called for bids based on the unit of a box of 100 syringes. The contractor placed the lowest bid, and was contacted by the VA to confirm its prices and its understanding of the specifications and delivery schedule. The contractor confirmed that all three elements were correctly reflected in its bid. However, upon receipt of the delivery order, the contractor informed the VA that it had neglected to take exception to the packing requirement, and that its quoted price was erroneously based on a 50 per box unit instead of the required 100

per box. The contractor claimed that, as a result of this mistake, its price represented only 50 percent of the VA requirement. The general rule, applicable to a mistake in bid alleged after the award, is that the sole responsibility for preparation of the bid rests with the bidder, and where a bidder makes a mistake in the bid, it must bear the consequences of its mistake unless the mistake is mutual or the contracting officer was on actual or constructive notice of an error prior to the award. In this case, there was nothing in the record which should have placed the contracting officer on notice of a possible mistake in the bid. In addition, it was clear that the alleged mistake was unilateral on the part of the contractor, and not mutual. There existed no legal basis to grant the relief requested.

**113371**

***U.S. Nuclear Non-Proliferation Policy: Impact on Exports and Nuclear Industry Could Not Be Determined.*** ID-80-42; B-199974. September 23, 1980. 42 pp. plus 5 appendices (36 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** International Affairs: Risks of Weapons Proliferation Associated With Peaceful International Nuclear Cooperation (0616); Energy: Making Nuclear Fission a Substantial Energy Source (1608).
**Contact:** International Division.
**Budget Function:** International Affairs: Foreign Information and Exchange Activities (0153).
**Organization Concerned:** Department of Commerce; Department of State; Department of Energy; Export-Import Bank of the United States.
**Congressional Relevance:** Congress.
**Authority:** Nuclear Non-Proliferation Act 1978. P.L. 96-280.
**Abstract:** U.S. companies dominated the nuclear export market through the early 1970's, gaining 86 percent of free-world nuclear power reactor exports during 1970-1973. The United States also monopolized the supply of uranium enrichment services for free-world reactors. However, many foreign reactor vendors, some aided by U.S. technology sales, have emerged to capture their domestic markets, thus shrinking the market available to U.S. companies. Several foreign vendors have also competed aggressively for export sales, reducing the U.S. share of free-world reactor exports to less than 50 percent for the years 1974-1979. In addition, European and Soviet suppliers are competing for sales of uranium enrichment services. In the highly competitive nuclear export market, technology, economics, and politics may influence a customer's choice of suppliers. Divergence in nuclear nonproliferation policies is but one of the many factors. ***Findings/Conclusions:*** There is little evidence that the Nuclear Non-Proliferation Act actually caused lost export sales. However, nuclear industry officials and foreign customers have complained about the Act's export restrictions and the resulting export license delays. In addition, U.S. nonproliferation policies, preceding the Act, played a part in the failure of U.S. companies to win reactor orders in Brazil and Iran during 1975-1977. During that period, U.S. nonproliferation policies were evolving and included certain provisions, such as restrictions on enrichment technology exports and control over reprocessing of U.S.-origin fuel, that became law in the Act. GAO could not determine the impact of the Nuclear Non-Proliferation Act on the competitiveness of U.S. nuclear exports. However, other factors could affect U.S. nuclear exports. Forecasts of future world nuclear power plant capacity have indicated progressively lower growth rates since 1973. The present status of nuclear energy programs has led some to question the viability of the nuclear industry worldwide. It has been suggested that, unless substantial political and economic changes occur in the early 1980's to stimulate new orders, both major U.S. and foreign nuclear suppliers will be severely strained to maintain reactor operations.

**113372**

***An Analytical Framework for Federal Policies and Programs Influencing Capital Formation in the United States.*** PAD-80-24; B-199822. September 23, 1980. 80 pp.
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** National Productivity (2900); Economic Analysis of Alternative Program Approaches: Other Non-Line-of-Effort Assignments (4051).
**Contact:** Program Analysis Division.
**Budget Function:** General Government: Other General Government (0806).
**Congressional Relevance:** Congress.
**Abstract:** The rate of capital formation in the United States has slowed down. During the 1970's, the rate of increase in the net stock of fixed business capital was 25 percent lower than during the 1950's and 1960's. Because the slowdown was accompanied by a sharp acceleration in the rate of growth of the labor force, the rate of increase in the ratio of capital to labor declined even more. The ratio of capital to labor grew only 1 percent a year during the 1970's, compared with a 3 percent annual rate of increase from 1949 to 1969. GAO examined the means by which Federal policies, programs, and activities can affect the rate of capital formation. The purpose is to provide Congress with a perspective on an economic problem of major national significance, so that it can better evaluate policies designed to stimulate more rapid capital formation. ***Findings/Conclusions:*** Various Federal programs and activities influence the process of capital formation. They affect the amount of new investment that private business voluntarily chooses to undertake, the willingness of individuals and businesses to save for the future, and the fraction of national income available to the private sector for consumption or capital formation. Federal expenditures have some of the following effects: (1) they add directly to the total stock of capital when they are invested in public capital such as roads, dams, ships, and office buildings; (2) in the form of transfer payments to individuals, they substitute to some extent for private savings that would otherwise be needed to provide for the exigencies of old age, disability, or unemployment; (3) they alter the distribution of income in ways that reduce people's willingness to save; and (4) they can crowd out private capital formation by preempting savings that might otherwise have been used by private investors. The most important channels through which Federal taxation affects the rate of capital formation are: (1) the size of the Federal budget deficit; (2) changes in the rate of taxation; and (3) differential rates of taxation on alternative investment opportunities. Other Federal programs and policies affect capital formation by their: (1) monetary policy; (2) Federal credit programs; (3) regulation of prices, rates of return, and conditions of entry in various industries; (4) expansion of Federal regulations; (5) price controls on oil and natural gas; and (6) activity in the international marketplace.

**113373**

***[A Review of U.S. Macroeconomic Developments & Policies, 1946-78].*** PAD-80-2; B-196910. September 1980. 74 pp.
by Morton A. Meyers, Director, GAO Program Analysis Division.

**Issue Area:** Economic Analysis of Alternative Program Approaches: Other Non-Line-of-Effort Assignments (4051).
**Contact:** Program Analysis Division.
**Budget Function:** Impoundment Control Act of 1974 (1005).
**Authority:** Employment Act of 1946. Tax Reform Act of 1969. Tax Reform Act of 1976. Impoundment Control Act of 1974.
**Abstract:** A special study was prepared to provide a background for considering current economic developments, and to help analyze issues or programs where national economic activity is a significant factor. The behavior of such key macroeconomic variables as interest rates, unemployment rates, and growth rates of output,

money supply, and prices is traced from World War II. The fiscal and monetary policies pursued by the Federal Government are also described and analyzed.

**113374**

***Solar Energy Research Institute and Regional Solar Energy Centers: Impediments to Their Effective Use.*** EMD-80-106; B-198431. August 18, 1980. ***Released*** September 25, 1980. 33 pp. plus 1 appendix (1 p.).

*Report* to Sen. Abraham A. Ribicoff, Chairman, Senate Committee on Governmental Affairs; Sen. Charles H. Percy, Ranking Minority Member, Senate Committee on Governmental Affairs; by Elmer B. Staats, Comptroller General.

**Issue Area:** Energy: Prospects for Transition to Essentially Inexhaustible Energy Resources (1612); Science and Technology: Federal Laboratories and Federally Supported Organizations Performing Research and Development (2003).

**Contact:** Energy and Minerals Division.

**Budget Function:** Energy: Energy Supply (0271).

**Organization Concerned:** Department of Energy; Department of Energy: Solar Energy Research Institute; Energy Research and Development Administration.

**Congressional Relevance:** *Senate* Committee on Governmental Affairs; *Sen.* Abraham A. Ribicoff; *Sen.* Charles H. Percy.

**Authority:** Solar Energy Research, Development, and Demonstration Act of 1974 (P.L. 93-473). Energy Reorganization Act of 1974 (P.L. 93-438).

**Abstract:** The Department of Energy (DOE) has designated its Solar Energy Research Institute and Regional Solar Energy Centers as lead institutions for solar development and commercialization. Confusion and conflicts have existed over the roles of the Institute and the Regional Centers in the solar program. ***Findings/Conclusions:*** DOE has failed to assign to the Institute and the Regional Centers the responsibilities necessary to achieve their lead roles, and there have been conflicts between the Institute and the Centers over responsibilities for commercialization efforts. ***Recommendation To Agencies:*** The Secretary of Energy should take actions to ensure that the Institute and the Regional Centers are effectively integrated into the Federal solar program. At a minimum, the Secretary should use the Institute and Regional Centers as its lead institutions for solar energy development and commercialization, as intended. As part of this action, the Secretary should assign tasks and responsibilities to these entities that are consistent with their lead institution roles. Particular attention should be given to the leadership role in solar commercialization in view of the confusion which now exists. The Secretary should improve the planning process for developing the Institute's and the Regional Centers' activities. Improving the process should entail the development of more timely and clear guidance for these organizations which would permit the development of plans by the Institute and Regional Centers which meet established schedules and the needs of DOE. Some flexibility should be incorporated into the planning process to permit the Regional Centers to undertake activities to address specific regional solar commercialization needs. The Secretary should also ensure that multiyear plans are satisfactorily developed this year to provide needed stability to the Institute and the Regional Centers. Finally, the Secretary should monitor the effectiveness of the Department's reorganization of its solar program with regard to integrating the Institute and the Regional Centers into the Federal solar program and using them as lead institutions.

**113375**

***[Evaluation of EF-111A Extended Development and Full-Scale Production Decision].*** PSAD-80-71; B-196765. August 27, 1980. ***Released*** September 25, 1980. 5 pp.

*Report* to Rep. Jack Brooks, Chairman, House Committee on Government Operations; by Elmer B. Staats, Comptroller General.

**Issue Area:** Procurement of Major Systems: Impact of OMB Circular A-109 and Other Management Strategies on Acquisition Programs (3004); Procurement of Major Systems: Reducing Total Ownership Cost of Systems During the Acquisition Process (3006); Procurement of Major Systems: Testing and Evaluation of Acquisition Planning, Conducting, and Reporting (3054).

**Contact:** Procurement and Systems Acquisition Division.

**Budget Function:** National Defense: Weapons Systems (0057).

**Organization Concerned:** Department of Defense; Department of the Air Force.

**Congressional Relevance:** *House* Committee on Government Operations; *Rep.* Jack Brooks.

**Abstract:** Results of the monitored progress of the EF-111A Tactical Jamming System phased development test program are summarized. In February 1979, the Department of Defense (DOD) decided to initiate a 12-month effort to define and demonstrate corrections for numerous technical/design deficiencies in the system. Due to an urgent need for the EF-111A, the effort was limited to production of six systems in a manner that would reduce the subsequent risk of expensive redesign and retrofit. This effort was to be successfully completed before the full-scale production decision. ***Findings/Conclusions:*** Program monitoring showed that the Air Force had defined and demonstrated corrections for most of the technical and design deficiencies detrimental to the EF-111A's operability, reliability, and maintainability. As of March 1980, only 4 of the 220 deficiencies identified during initial and follow-on tests remained open. Solutions to some significant performance degradations and answers to questions concerning reliabilty and maintainability of two major subsystems are continuing to be sought. DOD approved full-scale production of the EF-111A in March 1980. The Air Force plans to procure 33 EF-111A's in fiscal years 1981, 1982, and 1983 and to concurrently pursue the second phase of follow-on testing to correct the remaining technical problems. The estimated program cost is $1.3 billion, including about $450 million already spent. The scenario analysis fell short in demonstrating the system's military worth or cost effectiveness that would support spending $1.3 billion for 42 EF-111A's. At this date, a decision to defer further production until operational effectiveness and military worth can be better demonstrated may be too costly. However, terminating the program at this time may be worse than deferral since the system's effectiveness is not yet adequately known. ***Recommendation To Agencies:*** Before requesting funds for fiscal year 1982 and 1983 EF-111A procurements, the Secretary of Defense should reconcile differing concepts of deployment to assure a realistic basis for additional dedicated effectiveness testing and scenario analysis, and plan dedicated effectiveness tests and evaluations to be undertaken in 1981 when the improved threat radar simulators are in place and another EF-111A becomes available. The Secretary of Defense should also advise the authorization and appropriation committees of the results of the tests and evaluations. Further, the Secretary of Defense should develop proposals for congressional consideration to fund the development and maintenance test facilities and environment suitable for testing electronic warfare systems. To support requests for additional EF-111A's beyond the present program of 42 aircraft, the Secretary should conduct a comprehensive defense suppression analysis, considering all defense suppression alternatives and showing their relative cost effectiveness and affordability.

**113376**

***[Review of the District of Columbia's Automatic Data Processing Operations].*** GGD-80-103; B-200196. September 9, 1980. ***Released*** September 25, 1980. 4 pp.

*Report* to Sen. Thomas F. Eagleton, Chairman, Senate Committee on Governmental Affairs; Governmental Efficiency and the

District of Columbia Subcommittee; by William J. Anderson, Director, GAO General Government Division.

**Issue Area:** Automatic Data Processing: Use of Computer Systems for Agency Mission Requirements and Support Functions (0108).
**Contact:** General Government Division.
**Budget Function:** Automatic Data Processing (1001).
**Organization Concerned:** District of Columbia.
**Congressional Relevance:** *Senate* Committee on Governmental Affairs: Governmental Efficiency and the District of Columbia Subcommittee; *Sen.* Thomas F. Eagleton.
**Abstract:** GAO reviewed the District of Columbia's data processing personnel and training processes as a part of its effort to assess the overall effectiveness of the District's management of its automatic data processing resources and to recommend improvements. Preliminary work indicated that the District was experiencing problems attracting and retaining employees and keeping them abreast of the ever-changing technology of data processing. ***Findings/Conclusions:*** The District of Columbia does not have formal career development programs and training programs for automatic data processing personnel. In the agencies which GAO visited there were no formal data processing career development programs to identify and define: computer personnel positions and salaries; specific skills and knowledge needed at each stage of the career ladder; alternate career paths available for each type of data processing personnel; and the types of training and experience required for career advancement. There were indications that low salaries have resulted in hiring individuals not fully qualified for the positions. Because the agencies lack career opportunities, a large number of data processing employees leave the District for employment with private industry or the Federal Government. In one agency, a contractor was hired to assume management of data processing activity because of dissatisfaction with in-house data processing management.

**113377**

***[Followup on Department of Labor's Actions on GAO's July 1977 Report on Administration of the Black Lung Benefits Program].*** HRD-80-111; B-200153. September 15, 1980. ***Released*** September 25, 1980. 8 pp.
*Report* to Sen. Richard S. Schweiker; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Issue Area:** Income Security and Social Services: Eligibility Determinations (1307).
**Contact:** Human Resources Division.
**Budget Function:** Income Security: General Retirement and Disability Insurance (0601).
**Organization Concerned:** Department of Labor; Office of Management and Budget; Department of Health and Human Services.
**Congressional Relevance:** *Sen.* Richard S. Schweiker.
**Authority:** Coal Mine Health and Safety Act of 1969 (Federal). Black Lung Benefits Reform Act of 1977.
**Abstract:** GAO made recommendations to the Department of Labor in 1977 pertaining to its administration of the black lung benefits program. A review has been made on the Labor actions to reduce the backlog of black lung claims, and on the GAO 1977 recommendations. The 1977 report noted that Labor was processing claims slowly and that the claims backlog was increasing. At that time, it was recommended that Labor: (1) allocate adequate resources and staff to effectively and efficiently carry out its responsibilities; (2) review and revise its claims processing procedures to reduce the delays between processing steps; (3) establish criteria on the timeliness of completing the informal hearing process; (4) determine the feasibility of having all X-rays re-read so that claimants whose X-rays are initially interpreted as negative for black lung are given every opportunity to qualify for benefits; and (5) establish an effective program to respond promptly to claimant inquiries on the status of their claims and to provide for more direct communications between the Labor national office and the field offices after the claim is filed. ***Findings/Conclusions:*** The review shows that Labor has acted on the GAO recommendations. To help improve the administration of the black lung benefits program, Labor established a decentralized organization to provide onsite service to new claimants and expedite claims processing. Labor could eliminate its large backlog by late calender year 1981. In response to GAO recommendations, Labor has: (1) allocated enough resources and staff to significantly reduce the large claims backlog; (2) taken several actions to expedite claims and reduce the claims backlog awaiting initial decisions; (3) established additional timeframes for completing the informal hearing process, and established the Branch of Pre-Hearing and Review to improve the transition of contested claims from the informal to formal hearing process; (4) required X-ray re-readings to determine whether the X-ray was of sufficient quality for determining black lung; and (5) established a decentralized organization with field stations assisting claimants and answering questions about claims. Labor has also developed a computerized black lung information system and placed terminals in each district office, and has acted to provide more direct and effective communication between its national office and districts.

**113378**

***Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies.*** HRD-80-102; B-200149. September 16, 1980. ***Released*** September 25, 1980. 97 pp. plus 10 appendices (16 pp.).
*Report* to Rep. Jack Brooks, Chairman, House Committee on Government Operations; by Elmer B. Staats, Comptroller General.

**Issue Area:** Automatic Data Processing: Changing ADPE Acquisition Regulations To Meet the Objectives of the Brooks Act (0112); Consumer and Worker Protection: Labor Standards (0916); General Procurement: Increasing the Effectiveness of Socioeconomic Legislation Impacting on the Procurement Process (1953).
**Contact:** Human Resources Division.
**Budget Function:** National Defense: Department of Defense - Procurement & Contracts (0058); Education, Training, Employment and Social Services: Other Labor Services (0505); Automatic Data Processing (1001); Procurement--Other Than Defense (1007).
**Organization Concerned:** Department of Labor; Department of Defense; National Aeronautics and Space Administration; Department of Energy; General Services Administration.
**Congressional Relevance:** *House* Committee on Government Operations; *Rep.* Jack Brooks; *Rep.* Frank Horton.
**Authority:** Service Contract Act of 1965 (41 U.S.C. 351 et seq.). Walsh-Healey Act (Government Contracts) (41 U.S.C. 35 et seq.). Fair Labor Standards Act of 1938 (29 U.S.C. 201). Davis-Bacon Act (Wage Rates). Communications Act of 1934. Classification Act (5 U.S.C. 5102(c)(7)). Truth in Negotiations Act (Military Procurement) (P.L. 87-653). 29 C.F.R. 4.132. 29 C.F.R. 4.141. 29 C.F.R. 541. P.L. 91-379. 5 U.S.C. 1082(7).
**Abstract:** The Service Contract Act of 1965 protects workers' wages on Federal contracts when the contracts' principal purpose is to provide services in the United States using service employees. Minimum wages and fringe benefits must be based on rates the Secretary of Labor determines as prevailing for service employees in the locality. The Department of Labor notified the General Services Administration (GSA) that the maintenance and repair services specifications of all Federal contracts for the purchase or rental of supplies or equipment were subject to the Act. Soon thereafter, several major automatic data processing (ADP) and other equipment manufacturers announced their refusal to accept any Government contract subject to the Act. Labor later issued an interim, nationwide wage determination covering ADP maintenance and repair services which accepted currently paid wages and

fringe benefits as prevailing for such services. Nevertheless, major ADP and other equipment manufacturers continued to reject Government contracts subject to the Act. Labor then developed a proposed average entrance-level wage rate that could be paid to the industry's service technicians subject to the Act. Labor's attorneys raised serious legal and policy questions concerning use of a nationwide entrance-level wage rate, thus Labor shelved the rate and issued wage determinations that, in effect, extend and expand the interim determination, while Labor officials continue to study the matter. ***Findings/Conclusions:*** Labor's decision could seriously affect maintenance and repair of the Government's computers, many of which are critical to national defense and security. GAO believes Labor's position is not supported by the Act's language and legislative history, Labor's regulations, or its administrative manual. The Act was not intended to cover maintenance services related to commercial products acquired by the Government. ADP, high-technology, and other commercial product-support service contracts, where Government sales represent a relatively small portion of a company's total sales, do not have the same characteristics or incentives for contractors to deliberately pay low wages to successfully bid on Government contracts. The industries' argument, that the Act's application to such services is not needed, has merit. Industry compliance would be counterproductive and costly. The administrative burdens and operating costs of each corporation would be increased. Merit pay systems and staff assignment practices would be disrupted. The application of the Act could also have an inflationary impact on the industries' wage rates. ***Recommendation To Congress:*** Congress should amend the Service Contract Act to make it clear that the Act excludes coverage for ADP and other high-technology commercial product-support services, that is services the Government procures based on established market prices of commercial services sold in substantial quantities to the public. ***Recommendation To Agencies:*** Pending such action by Congress, the Secretary of Labor should temporarily exempt from the Act's coverage certain contracts and contract specifications for ADP and other high-technology commercial product-support services.

**113379**

***[Request for Proposal Preparation Cost].*** B-193595. September 22, 1980. 4 pp.

*Decision* re: Prototype Development Associates, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Department of the Army; Prototype Development Associates, Inc.
**Authority:** Burroughs Corporation v. United States, Ct. Cl. No. 251-78 (1980). Keco Industries, Inc. v. United States, 192 Ct. Cl. 773 (1970). Keco Industries, Inc. v. United States, 203 Ct. Cl. 566 (1974). B-193595 (1979).
**Abstract:** A firm requested reconsideration of part of a GAO decision, which denied the firm's claim for proposal preparation costs. The claim had been filed after the Army rejected the firm's proposal for the provision of tow aircraft services because the firm failed to show that its proposed aircraft met the necessary speed requirement. Although GAO believed that the Army had prejudicially misapplied the Federal Aviation Administration (FAA) regulation compliance requirement, the claim was denied for two reasons: (1) the firm's proposal was properly rejected for failure to meet the speed requirement and was therefore ineligible for award, and (2) it was conjectural whether, in the absence of the deficiency in the procurement (Army failure to communicate a shift in its intent interpretation of the FAA requirement), the firm would have received the award. GAO viewed the FAA requirement as being of central importance since its interpretation could influence the offeror's choice of aircraft. The firm's interpretation of the requirement precluded its consideration of aircraft which met the speed requirement. The firm urged that the success of its c[illegible] should turn on its ability to show that the Army breached an implied promise to fairly and honestly consider its proposal, and should not depend on whether the firm would have received the award. However, the firm could only be entitled to award of proposal preparation costs if it could be shown that the actions of the Army, in rejecting the firm's proposal, were arbitrary or capricious. GAO believed that its consideration of the uncertainty surrounding the issue of whether the Army's actions precluded the firm from receipt of the award was proper, and that the denial of proposal preparation costs was proper. Accordingly, the prior decision was affirmed.

**113380**

***[Protest Against Contract Award].*** B-196326. September 22, 1980. 5 pp.

*Decision* re: J & A Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Department of the Army: Corps of Engineers; J & A Inc.; Department of the Interior.
**Authority:** Indian Self-Determination Act (25 U.S.C. 450e(b)(2)). Buy Indian Act (25 U.S.C. 47). 4 C.F.R. 20. 58 Comp. Gen. 297. 54 Comp. Gen. 767. 58 Comp. Gen. 160. 44 Fed. Reg. 62514. B-114835 (1969).
**Abstract:** A firm protested the award of a contract by the Army Corps of Engineers on the basis that the Corps did not comply with legislation that required that Indian organizations and Indian-owned firms be given preference, to the greatest extent feasible, in the award of subcontracts where the prime contract with the Federal Government is for the benefit of native Americans. The firm alleged that it would be eligible for the cited preference because of its 51 percent Indian ownership. It was not disputed that the contract in this case was for the benefit of Indians. The Corps' position was that its responsibility was fulfilled by complying with the Buy Indian Act. However, the Buy Indian preference, as implemented by the Department of the Interior, involves the setting aside by the Government of procurements for participation by firms that are 100 percent Indian-owned. In contrast, the Indian Self-Determination Act mandates that Federal contracts for the benefit of Indians require the prime contractor to afford preference in subcontract awards to firms that may be only 51 percent Indian-owned. The Secretary of the Interior did not publish the implementation of the Indian preference provision until after bids were opened. However, this did not excuse the failure of the agency to impose the contractual duty on the prime contractor required by law in the award of subcontracts. Therefore, the protest was sustained.

**113381**

***[Government's Action To Set Off].*** B-195[illegible]. September 22, 1980. 2 pp.

*Decision* re: Wesley T. Smith, USN; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law II.
**Organization Concerned:** Department of the Navy.
**Abstract:** A Navy member filed a voluntary petition in bankruptcy in which he listed the Government as a creditor. Prior to the date the petition was filed, the United States was indebted to the member for accrued leave rations. Before the petition was filed, the Government deducted the amount owed for leave rations from an outstanding debt the member owed the Government. The issue is whether the United States is indebted to the Navy member for leave rations which accrued prior to the date the member filed the petition. The filing of a voluntary petition in bankruptcy did not affect the Government's setoff of the amount due the member for

leave rations. The accrual of the entitlement to the leave rations, the debt they were set off against, and the setoff action all took place before the petition was filed. The setoff effectively constituted payment of the amount due the member by reducing his debt. Accordingly, payment may not be made on the member's claim.

**113382**

***[Request for Reconsideration]***. B-193527. September 22, 1980. 5 pp.

*Decision* re: International Business Machines Corp.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** International Business Machines Corp.; General Services Administration; Amdahl Corp.
**Authority:** B-190983 (1979). 40 U.S.C. 759. 40 U.S.C. 759(a).
**Abstract:** A *firm requested reconsideration* and clarification of a prior decision. In that decision, GAO considered the propriety of the General Services Administration's (GSA) Master Terms and Conditions (MTC) Program for procuring automatic data processing equipment (ADPE). GAO found that the MTC was within the authority of the Administrator of GSA to coordinate and provide for the economic and efficient purchase, lease, and maintenance of ADPE, and that it was not contrary to Federal law or otherwise detrimental to the Government's interest. On reconsideration, the protester requested that GAO further address the question of conduct by GSA in administering the MTC program. The protester alleged that GSA had been inconsistent in its administration of the program in recent procurements. According to the protester, GSA had summarily rejected several of its proposals which deviated from the MTC, while accepting proposals from the protester and other offerors which also deviated from the MTC. GAO agreed that the actions of GSA could have caused confusion on the negotiability of the MTC. However, the recommendation that GSA cure the inconsistency by amending the MTC to explicitly provide for the acceptance of offers not in literal compliance with the MTC is not necessary, since the MTC program has already been revised to permit negotiation with respect to the method of meeting MTC requirements.

**113383**

***[Claim for Long Distance Telephone Call and Postage Expenses]***. B-197266. September 22, 1980. 3 pp.

*Decision* re: Stuart T. Brown; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** Public Health Service, Center for Disease Control.
**Authority:** F.T.R. para. 1-11.3c(16). B-186820 (1978). B-192691 (1979). 31 U.S.C. 680a. 44 U.S.C. 595. 56 U.S.C. 28.
**Abstract:** A request was made for a decision concerning a voucher submitted by a Public Health Service employee for a long distance telephone call and postage costs incurred incident to his transfer to an overseas duty station. The issues were whether the employee may be reimbursed for a long distance call which appeared personal in nature and for postage costs for mailing documents in support of his claim for relocation expenses. The agency questioned payment of the claim since the employee admitted the call was not for official business but was to discuss housing decisions with his wife. In addition, the employee was unable to furnish a receipt for the telephone call since it was lost in the exchanges of correspondence in connection with his transfer. The voucher submitted by the employee showed that an approving official certified the call as necessary in the interest of the Government. GAO will not question such certification. However, the claim for postage for mailing documents related to the relocation may not be paid since it was personal in nature rather than an official matter.

**113384**

***[Review of Five Contracts Awarded by the Veterans Administration at the End of Fiscal Year 1979 for ADP Services and/or Software]***. September 24, 1980. 7 pp.

*Testimony* before the House Committee on Veterans' Affairs: Special Investigations Subcommittee; by Gregory J. Ahart, Director, GAO Human Resources Division.

**Contact:** Human Resources Division.
**Organization Concerned:** Veterans Administration; Office of Management and Budget; Department of Justice; General Services Administration; National Data Communications, Inc.; Intersystems, Inc.; Sunquest Information Systems, Inc.; Galler Associates, Inc.; Small Business Administration.
**Congressional Relevance:** *House* Committee on Veterans' Affairs: Special Investigations Subcommittee.
**Abstract:** GAO reviewed five of seven automatic data processing procurement contracts which the Office of Management and Budget (OMB) had recommended that the Veterans Administration (VA) terminate. GAO assessed OMB charges concerning procurement irregularities and VA responses to these charges. GAO also identified the VA officials responsible for any confirmed irregularities, citing the contracting officer as the responsible official, as well as other officials who were directly involved. As the Administrator of Veterans Affairs had approved several of the projects leading to these yearend contracts, the only options available to the contracting officers were to refuse to process the contracts or take shortcuts. They took various shortcuts. For one or more of the contracts, GAO found VA did not conduct cost or price analysis; did not conduct preaward price negotiations even when there was only one responsive bidder; substituted a postaward audit clause for the conduct of negotiations, a practice precluded by Federal Procurement Regulations; and awarded a contract without proper authority from the General Services Administration. Other questionable practices involved: a lack of a determination of why only one contractor submitted a proposal for a pharmacy application; an unclear clause in two requests for proposals; and the Small Business Administration not being involved early enough in preaward discussions on one contract. GAO confirmed about half of the OMB charges, and agreed with the VA responses to OMB for the remainder. The VA Office of Inspector General is continuing to investigate OMB observations of favoritism. VA has proposed several corrective actions which should improve and strengthen its procurement practices.

**113385**

***[Proposed Title V to S. 262]***. PAD-80-44. September 22, 1980. 1 p. plus 2 enclosures (13 pp.).

*Report* to Sen. Abraham A. Ribicoff, Chairman, Senate Committee on Governmental Affairs; by Harry S. Havens, Director, GAO Program Analysis Division.

**Contact:** Program Analysis Division.
**Budget Function:** Commerce and Housing Credit: Other Advancement and Regulation of Commerce (0376).
**Congressional Relevance:** *Senate* Committee on Governmental Affairs, Congress, Sen. Abraham A. Ribicoff.
**Authority:** S. 262 (96th Cong.). S. 2147 (96th Cong.).
**Abstract:** GAO transmitted information on the proposed Title V to S. 262, the Reform of Federal Regulation Act of 1979. Programs covered by the title were grouped by committee jurisdiction to prepare a breakdown of committee workload that would result from the proposed title. The list identifies responsible Senate committees and shows whether each program is now subject to reau

thorization. A second list compares the list of agencies in Section 503 with a comprehensive list of regulatory agencies.

**113386**

***[Review of Report Concerning Investment Tax Credit].*** PAD-80-3; B-197335. January 18, 1980. 5 pp.

*Report* to Rep. Sam M. Gibbons, Chairman, House Committee on Ways and Means: Oversight Subcommittee; by Harry S. Havens, Director, GAO Program Analysis Division.

**Contact:** Program Analysis Division.
**Budget Function:** Commerce and Housing Credit: Other Advancement and Regulation of Commerce (0376).
**Organization Concerned:** Department of the Treasury.
**Congressional Relevance:** *House* Committee on Ways and Means: Oversight Subcommittee; *Rep.* Sam M. Gibbons.
**Abstract:** GAO reviewed a Department of the Treasury report concerning the effect of the investment tax credit on competition in the automobile industry. The analysis contained in the report was an adequate effort to use data from company tax returns to clarify the effect of the credit on competition. Because of the unique structure of the automobile industry, these findings can not be generalized to other industries. One cannot tell whether the investment tax credit stimulates or depresses competition. Healthy firms earning good profits can benefit more from the investment tax credit than financially troubled firms, or firms that are beginning business. The credit may help successful firms expand their share of the market by allowing them to enlarge their productive capacity or to replace old equipment at a lower cost. It might provide different benefits to firms that prefer using different relative amounts of capital and labor. GAO does not know whether capital intensity differs systematically between large and small firms in the automobile industry. The success of imported cars in the U.S. market was not considered in the Treasury report, nor was the effect of different degrees of vertical integration on competition. Highly integrated firms will have a higher ratio of capital assets to sales than firms that purchase components. GAO suggested alternative study approaches, but while urging that the competitive impact of the investment tax credit be analyzed using an economic model, GAO recognized that the model would not answer all questions. It could provide a framework for any detailed analysis undertaken by the Treasury. An unequal distribution of benefits from the investment tax credit may be inherent in the law, the structure of the industry, and in differences among firms within the industry. While this unequal distribution of benefits may adversely affect industry competition, it may also be an essential feature of a credit that stimulates the most productive investments. Changes in the investment tax credit that are intended to foster competition may weaken the investment stimulus, a loss that policymakers may be unwilling to accept. Methods other than tax policy may offer more appropriate means of encouraging competition.

**113387**

***[Comments on a Study on the Effects of a Restrictive Drug Formulary].*** PAD-80-42, B-197492. January 21, 1980. 3 pp.

*Report* to Rep. Mickey Leland, by Harry S. Havens, Director, GAO Program Analysis Division.

**Contact:** Program Analysis Division.
**Budget Function:** Health: Nursing Homes (0557).
**Congressional Relevance:** *House* Committee on Interstate and Foreign Commerce: Health and the Environment Subcommittee; *Rep.* Mickey Leland.
**Abstract:** GAO reviewed a study which discussed the fact that the high cost of the Medicaid program has forced many States to contain costs via restrictions on optional services such as prescribed drugs. The study concluded that the savings accrued from outpatients' and long-term care patients' drug purchases, which formerly would have been reimbursed through Medicaid, were more than offset by the increase in the demand for nonprescription services. No causal relationship between the decrease in drug prescription costs and the increase in nonprescription services was demonstrated in the study. Restricting some medications caused many elderly and disabled persons to become more ill and use more nonprescription services. ***Findings/Conclusions:*** The population sample used in the study might have reflected a population more likely to require all types of services, regardless of the formulary policy. Those diseases which were affected most by the restrictive drug formulary experienced the only increase in the frequency of diagnoses among the 12 most common disease classes. The study's assumptions might not be valid. It is difficult to determine, from a broadly defined disease class, whether or not a specific drug would have been beneficial if prescribed. The rationale applied to ranking the restricted drugs' degree of impact on disease classes is not well supported or documented.

**113388**

***[Yearend Obligations Broken Down by Subcommittee Jurisdiction].*** PAD-80-89. July 7, 1980. 2 pp.

*Report* to William D. Gray, Chief Investigator, Senate Committee on Appropriations; by Morton A. Myers, Director, GAO Program Analysis Division.

**Contact:** Program Analysis Division.
**Budget Function:** General Government: Legislative Functions (0801).
**Congressional Relevance:** *Senate* Committee on Appropriations.
**Abstract:** GAO provided the Senate Committee on Appropriations with schedules of yearend obligations by month for each of the 3 months of the fourth quarter and the total obligations for the fourth quarter and the fiscal year. The information, obtained from Treasury bulletins, was given for fiscal years 1977, 1978, and 1979, and was broken down by subcommittee jurisdiction to the maximum extent possible. Because the request had such a short timeframe, the information was not verified with the agencies or the Department of the Treasury.

**113389**

***[Appropriated Funds and Interest].*** B-197020. September 17, 1980. 1 p.

*Letter* to Jack W. Miller, President, Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Special Studies and Analysis.
**Organization Concerned:** Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc.

**113390**

***[Protest Against the Inclusion of Certain Contract Terms in IFB].*** B-198895. September 23, 1980. 3 pp.

*Decision* re: Del-Jen, Inc.; by Milton J. Socolar (for Elmer B. Staats, Comptroller General).

**Contact:** Office of the General Counsel: Procurement Law I.
**Organization Concerned:** Del-Jen, Inc.; Department of the Army: Fort Hood, TX.
**Authority:** B-190837 (1978).
**Abstract:** A small business firm protested an Army solicitation specification which required the contractor to provide utility metering devices to measure the utilities used in the performance of the contract. No specifications were set forth in the solicitation for the meters. The protester also objected to the contractor having to reimburse the Government for the utilities used in performance of

the contract on the ground that the utility rates could increase over the 3-year contract period, thereby causing a loss to the contractor. Because the current rates and estimated consumption given by the Army were not guaranteed, a contingency factor was necessary in the bidder's price. Further, the protester asserted that the bid opening date should have been extended to allow the Small Business Administration time to guarantee the required performance bond. GAO found that the lack of specifications concerning the utility meters was not improper, because the item was in common usage and bidders would have no difficulty in furnishing one acceptable to the Government. Requiring the bidder to reimburse the Government for the cost of the utilities was not improper where the Government furnished the current utility rates and estimated consumption, because all bidders bear the same risk in estimating the costs of contract compliance. Since the solicitation was issued 60 days prior to bid opening, there appeared to have been adequate time to comply with the bonding requirement. Accordingly, the protest was denied.

**113391**

***[EEOC's Proposed Regulations].*** B-200080(VBG). September 24, 1980. 4 pp.

*Letter* to Leroy D. Clark, General Counsel, Equal Employment Opportunity Commission; by Milton J. Socolar, General Counsel.

**Contact:** Office of the General Counsel: Personnel Law Matters I.
**Organization Concerned:** Equal Employment Opportunity Commission.
**Authority:** Rehabilitation Act of 1973 (P.L. 95-206; 92 Stat. 2955; 92 Stat. 2982; 29 U.S.C. 794a). Civil Rights Act of 1964 (42 U.S.C. 2000e-16). S. Rept. 95-820. 123 Cong. Rec. S15591. B-193144 (1980).

**113392**

***[Department of Defense Should Resolve Major Issues Regarding Reengining the KC-135 Aircraft Before Continuing the Program].*** PSAD-80-80; B-200357. September 23, 1980. 6 pp.

*Report* to Harold Brown, Secretary, Department of Defense; by Walton H. Sheley, Jr., Acting Director, GAO Procurement and Systems Acquisition Division.

**Issue Area:** Procurement of Major Systems (3000).
**Contact:** Procurement and Systems Acquisition Division.
**Budget Function:** National Defense: Weapons Systems (0057).
**Organization Concerned:** Department of Defense; Department of the Air Force; Department of Defense: Office of the Secretary; Department of Defense: Defense Systems Acquisition Review Council.
**Abstract:** A review was undertaken of the Air Force's KC-135 tanker aircraft reengining modification program. The reengining modification is a complex effort involving extensive development and testing that will reportedly provide several benefits. These include increasing KC-135 survivability, safety, fuel efficiency, and fuel off-load capability. The reengined KC-135 will also be quieter and produce fewer pollutants. The purpose of the review was to determine the program's status and to identify unresolved pertinent issues. The issues addressed included questions concerning the program's pace, cost effectiveness, need, and affordability. ***Findings/Conclusions:*** The GAO review showed that the primary reason for reengining the KC-135 is the need for additional aerial tanker off-load capability. Although the program is in the early stages of full-scale development and meets all the criteria of a major system acquisition, it has not been designated a major system and subjected to review by the Defense System Acquisition Review Council (DSARC). A review by DSARC is particularly critical at this time because of Air Force plans to award contracts, totaling about $140 million, for the initial effort to modify the first KC-135 aircraft and to complete research and development. Further, while a mission element needs statement has been prepared for the program, it has not yet been approved by the Office of the Secretary of Defense. ***Recommendation To Agencies:*** To avoid the possibility of continuing to develop a system which may not be needed, affordable, or the most cost-effective alternative, the Secretary of Defense should direct DSARC to review the program to answer the basic questions concerning the program. Further, the Secretary should direct the Air Force to withhold its planned October 1980 contract awards until DSARC has completed its review.

**113393**

***Domestic Housing and Community Development Issues for Planning.*** CED-80-139; B-114860. September 24, 1980. 75 pp. plus 1 appendix (3 pp.).

*Staff Study* by Henry Eschwege, Director, GAO Community and Economic Development Division.

**Issue Area:** Domestic Housing and Community Development (2100).
**Contact:** Community and Economic Development Division.
**Budget Function:** Commerce and Housing Credit (0370); Community and Regional Development (0450); Income Security: Public Assistance and Other Income Supplements (0604); Veterans Benefits and Services: Veterans Housing (0704).
**Authority:** Housing and Community Development Act of 1974. Disaster Relief Act. P.L. 95-507. P.L. 94-305.
**Abstract:** Many serious housing and community development problems face the United States during the 1980's. The number of households will increase 19 percent during the 1980's, placing greater demand on the housing supply. Americans continue to migrate to the South and West, and increasingly to rural areas. Population redistribution is responsible for a wide range of present urban problems, such as the concentration of disadvantaged groups within central cities. Rural problems, such as inadequate public facilities and services, are also created. Three broad areas of concern that have guided the Federal Goverment's participation in housing and community development include the recognition that it had: (1) a responsibility to maintain and promote economic stability; (2) a social obligation to help provide for those in need; and (3) an emerging interest in how the nation's communities develop. Two fundamental policies that the Government is concerned with are the private home financing system and Government-subsidized housing for low-income families. The Government's concern over community growth and development has steadily expanded to include neighborhoods, entire cities, counties, and preplanned new communities. These efforts have been designed to assist cities solve urban problems and to encourage them to develop more orderly, attractive, and livable communities. Attention has also been focused on increasing the quality of life in rural communities. ***Findings/Conclusions:*** Federal housing programs during the 1980's must deal with: (1) the need for over 2 million new housing starts each year to meet the growing and mobile population and the changing lifestyles; (2) the need to slow down the rapid increases in the cost to construct, operate, and finance housing; (3) the increased need to provide housing for lower income persons, since housing deprivation is changing from a problem of physical inadequacies to that of excessive cost; and (4) the need to preserve the existing housing stock because it is unlikely the construction industry can meet the future housing needs through new construction. The basic continuing community development problems facing the United States include: (1) the need to provide immediate assistance to the most troubled cities and communities, which should be targeted to help cities restructure their economies and better adapt to change; (2) the need to help all cities offer their residents decent services, adequate jobs, sound neighborhoods, good housing, and healthy environments; (3) the need to minimize community losses

due to catastrophes; (4) the presence of disorderly, uneconomic, and antisocial patterns of development and land use in the nation; (5) the increase in fiscal and political fragmentation resulting in an aggravating mismatch of needs and resources; (5) the lag in development of community facilities in rural areas and areas experiencing rapid growth; and (6) citizen alienation and/or apathy in the face of ineffective governmental action.

**113394**

***Audit of the Senate Building Beauty Shop for the Fiscal Year Ended February 29, 1980.*** GGD-80-99; B-200289. September 24, 1980. 2 pp. plus 1 appendix (1 p.) plus 4 attachments (4 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Accounting and Financial Reporting: Operations, Financial Position, and Changes in Financial Position (2802).
**Contact:** General Government Division.
**Budget Function:** General Government: Legislative Functions (0801).
**Organization Concerned:** Senate: Office Beauty Shop.
**Congressional Relevance:** Congress.
**Abstract:** The Senate Building Beauty Shop operates under the jurisdiction of the Sergeant at Arms of the Senate. The Beauty Shop provides a convenient source for Senate employees to obtain beauty services and various personal service products. GAO audited the accounts of the Beauty Shop for the fiscal year ended February 29, 1980. GAO prepared a statement of financial condition as of February 29, 1980, as well as statements of income and expense, changes in partner's capital accounts, and changes in financial position for the year then ended, from the Beauty Shop's accounting records. These records, except for depreciation and accrued taxes, were maintained on a cash basis. They do not include the costs of certain benefits and services, such as space, utilities, and ordinary building repairs and maintenance, which are furnished to the Beauty Shop without charge. The audit was made in accordance with generally accepted auditing standards. ***Findings/Conclusions:*** The Beauty Shop realized a net income of $13,960.99 for the fiscal year, which was divided between two partners. The financial statements present fairly the financial position of the Senate Building Beauty Shop at February 29, 1980, and the results of its operations for the fiscal year then ended.

**113395**

***Oil Savings From Greater Intertie Capacity Between the Pacific Northwest and California.*** EMD-80-100; B-199624. September 24, 1980. 12 pp. plus 2 appendices (4 pp.).
*Report* to Charles W. Duncan, Jr., Secretary, Department of Energy; by J. Dexter Peach, Director, GAO Energy and Minerals Division.

**Issue Area:** Energy: Federal Government Trusteeship Over Energy Sources on Federal Lands (1614).
**Contact:** Energy and Minerals Division.
**Budget Function:** Energy: Energy Supply (0271).
**Organization Concerned:** Department of Energy; Bonneville Power Administration; Federal Energy Regulatory Commission; Economic Regulatory Administration.
**Authority:** Power Act (Water). 16 U.S.C. 202(c). 16 U.S.C. 210. 16 U.S.C. 837g. 16 U.S.C. 838b(d).
**Abstract:** GAO undertook a study of the benefits from expanding the Pacific Northwest-Southwest electricity interconnections as part of its continuing effort to assess the Federal power marketing agencies' operations and because the existing interties between the Pacific Northwest-Southwest cannot carry the potential for all power exchanges. The study involved the Bonneville Power Administration, Western Area Power Administration, the Federal Energy Regulatory Commission, the Economic Regulatory Administration (ERA), and States in the Northwest and Southwest. At present, three high-voltage transmission lines (interties) connect California and the Pacific Northwest. These lines were jointly developed by public and private power interests, and have permitted Bonneville and Northwest utilities to sell California utilities surplus power. Surplus energy sales allow the Northwest to sell a resource which may otherwise be wasted, and allow California utilities to turn off oil-powerplants. GAO studied three proposals for increasing transmission capacity. ***Findings/ Conclusions:*** GAO found that, in addition to lowering electric rates in the Pacific Northwest and California, an annual average of 4 million barrels of oil could be saved by expanding the intertie system between these areas. A little over half the oil savings would result from the sale of surplus energy from the Northwest, while slightly less than half would come from the sale of additional surplus energy from Canada. However several issues must be addressed before expansion can occur. Uncertainty exists among some California utilities, which are parties to the proposed expansion, over whether benefits from expansion will in fact materialize. In addition, there are some institutional and legal issues which must be addressed. GAO believes that to achieve this oil savings a closely coordinated effort between industry and the Federal Government will be required. ***Recommendation To Agencies:*** The Secretary of Energy should direct the ERA to: (1) monitor the progress of Bonneville's negotiations with California utilities to ensure all feasible agreements are reached to upgrade the d.c. line; and (2) work with Bonneville and California utilities to facilitate development of the third a.c. line. If, after a reasonable period, the above efforts are unproductive, the Secretary should seek congressional authority which would allow Western and Bonneville to provide impetus for development. In addition, the Secretary should direct Bonneville and Western to study the need for a second d.c. line and ERA to monitor these studies to assure they are conducted on a timely basis.

**113396**

***Indoor Air Pollution: An Emerging Health Problem.*** CED-80-111; B-197418. September 24, 1980. 24 pp. plus 3 appendices (10 pp.).
*Report* to Congress; by Elmer B. Staats, Comptroller General.

**Issue Area:** Environmental Protection Programs: Environmental Protection Regulatory Strategies (2208).
**Contact:** Community and Economic Development Division.
**Budget Function:** Natural Resources and Environment: Pollution Control and Abatement (0304).
**Organization Concerned:** Environmental Protection Agency; Department of Energy.
**Congressional Relevance:** Congress.
**Authority:** Clean Air Act Amendments of 1977. Toxic Substances Control Act.
**Abstract:** While Government and industry have concentrated on cleaning up the Nation's outdoor air, they have paid little attention to the quality of indoor air in the nonworkplace. Harmful pollutants have been found in various indoor environments in greater concentrations than the surrounding outdoor air. In some cases, indoor pollution exceeds the national standards set for exposure outdoors. Harmful pollutants which have been found in indoor air environments include: higher than average levels of radioactive radon; unhealthy levels of carbon monoxide, formaldehyde from foam insulation, nitrogen dioxide from poorly ventilated gas stoves, and smoking, a major indoor source of respirable particles. Some measures intended to reduce energy use in buildings contribute to the buildup of indoor air pollution. One material qualifying for a Federal tax credit for home insulation is a source of potentially harmful indoor air pollution. ***Findings/Conclusions:*** While Federal officials agree that indoor air pollution poses a potentially serious health problem, they have been reluctant to study it because they lack a clear responsibility for doing so. The lack of clear

responsibility and authority has caused a duplication of some efforts. Agencies also find themselves assuming adversarial roles when assessing Federal actions on indoor air quality. Environmentalists and those concerned with energy conservation disagree about programs. Some European countries have recognized the significance of the indoor air quality standards for certain pollutants, and have taken measures to control the problem. There are low-cost ways to minimize indoor air pollution, including proper ventilation and use of ventilating equipment and filtering devices. A massive new Federal program is not necessary now, but the Environmental Protection Agency (EPA) could develop a comprehensive, coordinated program using existing resources in both the public and private sectors. ***Recommendation To Congress:*** Congress should amend the Clean Air Act to provide EPA with the authority and responsibility for the quality of air in the nonworkplace. ***Recommendation To Agencies:*** The Administrator of EPA should establish a task force which will identify research activities of other Federal agencies and private institutions relating to indoor air pollution so that the EPA activities can be coordinated with them. It should compile available data on indoor air pollution and use this data to inform the public and other governmental organizations of the problem and available actions. The taskforce should provide advice to the Administrator on what EPA research and development efforts are needed to deal with the indoor air pollution problem.

**113397**

***The OGC Adviser.*** Vol. 4, Issue 2, Spring/Summer 1980. 17 pp. Published by the GAO Office of the General Counsel. Charles F. Rooney and Andrea J. Kole, Editors. Citations to individual articles appear elsewhere in this issue of GAO Documents.

**Contact:** Office of the General Counsel.

**Abstract:** This publication, which is published three times a year, contains articles which deal with various aspects of administrative law that should be of interest to the GAO staff. An overview of the administrative process of Federal agencies is presented. The intricacies involved in the ongoing Constitutional challenge of one of the legislative veto mechanisms are described. An article explores why many Federal employees may be locked out on October 1, if Congress fails to provide the agencies' appropriations in a timely manner. What happens when a provision in a treaty conflicts with U.S. domestic law is also described.

**113398**

***Don't Come to Work on October 1; or a Clearly Deficient Situation.*** June 1980. 3 pp.

by Bertram J. Berlin, Senior Attorney, GAO Office of the General Counsel.

In The OGC Adviser, Vol. 4, Issue 2, Spring/Summer 1980, pp. 1-3.

**Contact:** Office of the General Counsel: General Government Matters.

**Congressional Relevance:** *House* Committee on Post Office and Civil Service: Compensation and Employee Benefits Subcommittee; Rep. Gladys N. Spellman.

**Authority:** Antideficiency Act.

**Abstract:** The Antideficiency Act prohibits Federal officers or employees from incurring an obligation on behalf of the United States prior to Congress enacting an appropriation to pay for it. In recent decisions, both the Comptroller General and the Attorney General have interpreted the Act as forbidding agencies from allowing their employees to work at the beginning of a fiscal year, unless the agency has an appropriation with which to pay them. Several bills have been introduced in Congress to continue the pay of Federal employees during future periods of expired appropriations. Presently, the only way the head of an agency can avoid violating the Antideficiency Act is to suspend the operations of the agency and instruct employees not to report to work until an appropriation is enacted. In response to a congressional inquiry, the Comptroller General stated that he believes that Congress does not intend that Federal agencies actually close down during periods of expired appropriations. He stressed the language in recent continuing resolutions which specifically ratified obligations incurred prior to, and in anticipation of, their enactment. However, he stated that despite what he perceived as the intent of Congress, agencies that continued to operate after their appropriations expired were in violation of the law. The Attorney General stated that under the Antideficiency Act, when an agency's appropriation has expired, the head of the agency must take immediate action to terminate the agency's activities in an orderly way. He also stated that the Department of Justice will begin enforcing the criminal provisions of the Antideficiency Act.

**113399**

***The Administrative Process: An Overview.*** June 1980. 5 pp.

by Raymond A. Wyrsch, Senior Attorney, GAO Office of the General Counsel.

In The OGC Adviser, Vol. 4, Issue 2, Spring/Summer 1980, pp. 4-8.

**Contact:** Office of the General Counsel: Special Studies and Analysis.

**Authority:** Administrative Procedure Act, U.S. Const. amend. V.

**Abstract:** Administrative process refers to all formal and informal rulemaking and adjudication of conflicting claims not done by the legislatures or the courts. The principal statute governing the administrative processes within Federal agencies is the Administrative Procedure Act. The Act prescribes the minimum procedural steps an agency must follow in its administrative proceedings, and establishes general standards under which a court may review the final administrative actions of an agency. Administrative agencies carry out their statutory responsibilities through rulemaking and adjudicative proceedings. Rulemaking refers to an agency's process for formulating, amending, or repealing a rule in the future. Adjudication refers to an agency's application of an established rule, law, or procedure to a set of particular facts and results in the issuance of an order affecting a particular party. Administrative adjudication is the process of resolving disputes or other specific matters, usually between an administrative agency and a private party. Most disputes of a substantive nature are resolved through formal proceedings which are normally heard by an Administrative Law Judge (ALJ), an employee of the agency concerned, who is required to conduct the administrative proceedings in an independent and objective manner. The final action of administrative agencies is subject to review by the courts. Judicial review examines whether the agency has exceeded its constitutional or statutory authority, has properly interpreted the applicable law, has conducted a fair proceeding, or has otherwise acted in a fair and reasonable manner. Congress may participate in administering the law by amendment or repeal of the statute, through appropriation, congressional investigations, or by legislative veto. Under his general powers, the President can exert considerable control over and intervene in the administrative actions of most agencies. Critics are concerned with the tremendous length of time it now takes for an administrative proceeding to run its course. Current bills before Congress to cut down excessive delay suggest that agencies should make greater use of informal rulemaking procedures, have more flexible adjudicatory procedures, eliminate unnecessary stages of internal review, and establish deadlines for various stages of proceedings.

**113400**

***Congressional Oversight and the Legislative Veto.*** June 1980. 4 pp. by Richard R. Cambosos, Attorney Advisor, GAO Office of the General Counsel.
In The OGC Adviser, Vol. 4, Issue 2, Spring/Summer 1980, pp. 9-12.

**Contact:** Office of the General Counsel: General Government Matters.
**Organization Concerned:** Supreme Court of the United States; Executive Office of the President.
**Congressional Relevance:** Congress.
**Authority:** Salary Act of 1967 (P.L. 90-206; 81 Stat. 644; 2 U.S.C. 359(1)). U.S. Const. art. I, § 1. U.S. Const. art. I, § 6, cl. 2. U.S. Const. art. I, § 7. U.S. Const. art. II, § 1, cl. 1, § 3. U.S. Const. art. III. Nixon v. Administrator of General Services, 433 U.S. 425 (1977). Atkins v. United States, 556 F.2d 1028 (Ct. Cl. 1977).
**Abstract:** The legislative veto is one method on which the Congress relies to continue congressional control over the subject matter of legislation after its enactment. The legislative veto requires the President or other executive branch official to present actions proposed pursuant to a law to either or both Houses of Congress or to specific committees before the proposed action becomes effective. A mechanism such as this is said to be necessary to permit Congress to exercise oversight control over the executive at a time when the complexity of the objects of legislation requires that the Congress delegate more and more power to the executive. These provisions have generally been opposed by recent Presidents as unconstitutional. One form of legislative veto, the one-House veto, requires action by either House of Congress to disapprove a proposed executive action. The constitutional challenge of the legislative veto is usually based on four provisions of the Constitution: separation of powers, presentment, bicameralism, and incompatibility. Few of the mechanisms have actually been challenged in court; however, some of the legislative veto mechanisms have received support from the judicial branch. In a recent case, the Court of Claims held constitutional the one-House veto provision in the Federal Salary Act. It ruled that the device neither conflicted with the constitutional powers and obligations of the Congress as a whole acting through both Houses, nor invalidly intruded on the constitutional sphere of the President. The court pointed out that the underlying Act was presented to the President, the recommendations under the Act were formulated by the President, and together these were sufficient to prevent legislative encroachment on the power of the executive. The Constitution makes specific grants of authority to a single House. The court concluded that both Houses need not act every time a legislative power or function is exercised or authorized. The court was of the opinion that approving regulations did not constitute administration of the laws. It is doubtful that the courts will rule on the constitutionality of the legislative veto generally, but will rule narrowly on the specific provisions. The legislative veto will continue to be used by Congress in an effort to increase its oversight role.

**113401**

***[International Activities of Banks].*** September 24, 1980. 13 pp.
*Testimony* before the House Committee on Banking, Finance and Urban Affairs: Financial Institutions Supervision, Regulation, and Insurance Subcommittee; by Elmer B. Staats, Comptroller General

**Contact:** Office of the Comptroller General.
**Congressional Relevance:** *House* Committee on Banking, Finance and Urban Affairs: Financial Institutions Supervision, Regulation, and Insurance Subcommittee.
**Authority:** International Banking Act 1978. Edge Act (Foreign Banking). McFadden Act (Banking). Bank Holding Company Act.
**Abstract:** Since 1970, foreign investors have acquired 93 U.S. banks. For the most part, the foreign investors have exerted a positive influence by improving financially weak U.S. banks and maintaining financially strong banks. However, unfairness exists between foreign and domestic banks in the acquisition of large-to-medium U.S. banks. Although the International Banking Act of 1978 has provided for more equal treatment of foreign and domestic banks in the United States, foreign banks continue to realize some advantages over domestic banks. The Act limits future foreign bank multistate endeavors, but permits the 63 existing foreign bank multistate operations to continue, an activity not permitted to domestic banks. Domestic and foreign banks and individuals are subject to the same charter, examination, insurance, reporting, merger, and acquisition processes. In spite of this, banking regulators are not fully able to assess the qualifications of foreign applicants to purchase U.S. banks because they cannot always verify the information submitted to them. Therefore, GAO recommended that the Federal banking regulators contact the home country banking regulator to determine the foreign individual acquirer's financial strength and reputation, and require that foreign banks and other businesses acquiring U.S. banks submit certified consolidated financial statements prepared in accordance with American Generally Accepted Accounting Principles. It further recommended that, in other than emergency situations, the Federal banking agencies require action be initiated to correct major problems noted in bank examination reports of both foreign and domestic banks proposing to merge. Congress should enact a moratorium on future foreign acquisitions of U.S. banks with total assets of $100 million or more. The moratorium should continue until the basic policy issues causing the unfair situation have been fully addressed. The moratorium should exclude foreign acquisitions necessary to prevent the bankruptcy or insolvency of domestic banks. Because the moratorium should not be viewed as a long-term solution to the problem, Congress should set an expiration date for the moratorium and a specific timetable for the action it will take to address the policy issues.

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# ABBREVIATIONS
# COMMONLY USED IN THIS PUBLICATION

In general, the abbreviations used in this publication follow the recommended practices of the U.S. Government Printing Office (GPO) ***Style Manual,*** Chapter 9. The following list includes only those abbreviations that do not coincide with those listed in the GPO ***Style Manual*** or do not appear there at all

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| **A.S.P.R.** | Armed Services Procurement Regulation |
| **C.F.R.** | Code of Federal Regulations |
| **C.M.P.I.** | Civilian Marine Personnel Inst. |
| **Ct. Cl.** | Court of Claims |
| **Cong.** | Congress |
| **D.A.R.** | Defense Acquisition Regulation (formerly A.S.P.R.) |
| **DODPM** | Department of Defense Military Pay and Allowances Entitlements Manual |
| **F.A.R.** | Federal Acquisition Regulation (formerly F.P.R.) |
| **F.P.M.** | Federal Personnel Manual |
| **F.T.R.** | Federal Travel Regulation |
| **H. J.Res.** | House Joint Resolution |
| **H.R.** | House bill |
| **H. Rept.** | House Report |
| **H. Res.** | House Resolution |
| **J.T.R.** | Joint Travel Regulation |
| **P.L.** | Public Law |
| **S.** | Senate bill |
| **S. J.Res.** | Senate Joint Resolution |
| **S. Rept.** | Senate Report |
| **S. Res.** | Senate Resolution |
| **U.S.C.** | United States Code |
| **U.S.C.A.** | United States Code Annotated |

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